

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

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GLENN COX, Individually and
as Class Representative

JAMES N. HATTEN, Clerk
By: [Signature] Deputy Clerk

Plaintiff

Civil Action No.
1:14-cv-1576-LMM-JSA

-VS-

MIDLAND FUNDING, LLC and
FREDERICK J. HANNA & ASSOCIATES, P.C.

Defendants

ORIGINAL

* * * * *

DEPOSITION OF

CATHRINE REINECKE

JANUARY 23, 2015

* * * * *

APPEARANCES:

THE KOVAL FIRM, LLC
Atlanta, Georgia
BY: STEVEN HOWARD KOVAL, ESQ.

ADDLETON LTD. CO.
Macon, Georgia
BY: DAVID F. ADDLETON, ESQ. (by telephone)

HURT STOLZ, LLC
Athens, Georgia
BY: JAMES W. HURT, JR., ESQ. (by telephone)

Counsel on behalf of the Plaintiff

BEDARD LAW GROUP, P.C.
Duluth, Georgia
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JOHN H. BEDARD, JR., ESQ. (by telephone)

Counsel on behalf of Frederick J. Hanna &
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APPEARANCES:

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 Atlanta, Georgia
 BY: RACHEL R. FRIEDMAN, ESQ.

Counsel on behalf of Midland Funding, LLC

BURR & FORMAN, LLP
 Atlanta, Georgia
 BY: JOSHUA H. THREADCRAFT, ESQ.

Counsel on behalf of Citibank, N.A.

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(Original transcript and exhibits provided to
 Mr. Chapman.)

* * * * *

1 The deposition of CATHRINE REINECKE was taken at this
2 time and place, that is, at the offices of Prairie Reporting,
3 Sioux Falls, South Dakota, on the 23rd day of January, 2015,
4 commencing at 10:03 a.m.; said deposition taken before Stacy
5 L. Wiebesiek, RPR, a Notary Public with and for the State of
6 South Dakota.

7
8 CATHRINE REINECKE

9 called as a witness, being first duly sworn, deposed and
10 said as follows:

1 (Exhibits 1 and 2 were marked for identification.)

2 MR. CHAPMAN: My name is Michael Chapman. I
3 am an attorney with Bedard Law Group in Atlanta,
4 Georgia, or just outside Atlanta, Georgia, and we
5 represent one of the defendants in this matter,
6 Frederick J. Hanna & Associates, P.C. I'm trying to
7 talk loud. Can everybody hear me okay?

8 MR. KOVAL: On the phone.

9 MR. BEDARD: Yeah.

10 MR. HUNT: Yes, I hear you fine. This is
11 Jimmy.

12 MR. CHAPMAN: All right. Thank you, Jimmy.

13 MR. THREADCRAFT: And before you go any
14 farther, this is Joshua Threadcraft, and I'm
15 defending this deposition. We received a subpoena
16 for the deposition. We served a response to that
17 with objections, and so I would like to mark that as
18 an exhibit to the deposition. It doesn't really
19 matter what number.

20 MR. CHAPMAN: Can we make it A?

21 MR. THREADCRAFT: That's fine.

22 MR. CHAPMAN: And then the other ones will
23 have numbers. Will that work?

24 (Exhibit A was marked for identification.)

25 MR. THREADCRAFT: Yes. And I'll just say, we

1 have endeavored to provide a witness to provide
2 answers to the categories. We believe they're
3 extremely broad, not described with reasonable
4 particularly, but putting that aside, we asserted
5 objections. We have a witness here to testify. We
6 are working in good faith to provide a response to
7 this. So with that being said, proceed.

8 MR. CHAPMAN: Okay. This is the deposition
9 of a representative of Citibank, N.A., pursuant to
10 service of a subpoena to testify to deposition in a
11 civil action pursuant to Rule 45 of the Federal
12 Rules of Civil Procedure. This deposition is for
13 all purposes permitted under the Federal Rules of
14 Civil Procedure and the local civil practice rules
15 of the United States District Court for the Northern
16 District of Georgia.

17 EXAMINATION

18 BY MR. CHAPMAN:

19 Q Ma'am, will you please state your name for the
20 record.

21 A Cathrine Reinecke.

22 MR. THREADCRAFT: And are we doing the usual
23 stipulations, all objections except as to form
24 reserved?

25 MR. CHAPMAN: It depends on what you wish to

1 do there. Do you want to just --

2 MR. THREADCRAFT: I don't care.

3 MR. CHAPMAN: Do you want to do form only?

4 MR. THREADCRAFT: It doesn't matter to me,
5 with the exception of form, and I guess privilege
6 too.

7 MR. CHAPMAN: Form and privilege, okay.

8 MR. THREADCRAFT: All reserved.

9 MR. CHAPMAN: Yep.

10 MR. THREADCRAFT: Is that good with you,
11 Steve?

12 MR. KOVAL: My only concern is -- I mean,
13 let's just comply with the rules because I don't
14 know how quickly Michael is going to want to use the
15 deposition, and since we've got everybody here, I
16 think it would probably be better if there was an
17 objection that is necessary to state, that it be
18 stated.

19 MR. THREADCRAFT: All right.

20 MR. KOVAL: Does that make sense?

21 MR. THREADCRAFT: I think so.

22 MR. KOVAL: I mean, just because of the
23 nature of this thing.

24 MR. CHAPMAN: Okay.

25 BY MR. CHAPMAN:

1 Q Ma'am, have you ever had a deposition taken before?

2 A Yes.

3 Q And when was the last time you had a deposition
4 taken?

5 A I don't remember.

6 Q Was it in 2015?

7 A No, it's been a couple years, but I don't remember
8 exactly.

9 Q Would you say it's in the last five years?

10 A No, I think it's probably longer than that.

11 Q And what's your full name for the record?

12 A Cathrine Reinecke.

13 Q And your date of birth?

14 A May 29, '65.

15 Q What's your home address?

16 A 5509 South --

17 MR. THREADCRAFT: Hold on a second. Why is
18 that important?

19 MR. CHAPMAN: Well, it's important because if
20 she's not employed with Citibank, N.A. at some
21 point, we may need to reach her in this case.

22 MR. THREADCRAFT: I'll say this on the
23 record, just because I don't want her personal home
24 address out there, you can contact me.

25 MR. CHAPMAN: Okay. So are you instructing

1 her not to answer or --

2 MR. THREADCRAFT: Well, can we do it off the
3 record?

4 MR. CHAPMAN: That's fine.

5 MR. THREADCRAFT: Yeah, let's do that off
6 record.

7 (Discussion off the record.)

8 MR. CHAPMAN: Okay. Are we back on the
9 record now?

10 THE COURT REPORTER: Yes.

11 BY MR. CHAPMAN:

12 Q What's your work address?

13 A 701 East 60th Street North, Sioux Falls, South
14 Dakota.

15 Q Who is your present employer?

16 A I'm employed by Citigroup Management Corp.

17 Q Is Citigroup Management Corp. related to Citibank,
18 N.A.?

19 A They're affiliates.

20 Q Are you able to describe what that affiliation is?

21 A No.

22 Q Do you understand, if I were to ask you is -- is
23 Citigroup Management Corp. a subsidiary of Citibank, N.A.,
24 would you know what that means?

25 MR. THREADCRAFT: I'm going to object to the

1 extent that it calls for a legal conclusion, and I
2 understand that this is just preliminary information
3 that you're asking of the witness, not testimony on
4 behalf of Citibank, right?

5 MR. CHAPMAN: Well, the subpoena was for
6 Citibank, N.A., so I need to establish that.

7 MR. THREADCRAFT: Okay. And what category is
8 this? What topic?

9 MR. CHAPMAN: This is for all topics.

10 MR. THREADCRAFT: Well, she is being produced
11 on behalf of Citibank, N.A. to provide testimony
12 with respect to the topics that are listed in your
13 subpoena, if that helps with the question.

14 MR. CHAPMAN: Let me ask her that question
15 then and then handle it that way.

16 MR. KOVAL: Michael, if I could -- just so
17 we're clear, you haven't introduced the subpoena
18 yet, have you?

19 MR. CHAPMAN: No. In fact, I haven't even
20 gotten to the preliminaries about what we're going
21 to do today.

22 MR. KOVAL: I just want to make sure that
23 we're all clear that it's the most recent subpoena.

24 MR. CHAPMAN: And we're going to get there.

25 BY MR. CHAPMAN:

1 Q Ma'am, are you here today to testify on behalf of
2 Citibank, N.A. in regard to a subpoena that was served on
3 Citibank, N.A.?

4 A Yes.

5 Q What is your highest level of education?

6 A I have an associate's degree.

7 Q Where did you obtain that degree?

8 A Kilian Community College.

9 Q And where is that?

10 A Here in Sioux Falls.

11 Q And when did you obtain the associate's degree?

12 A I don't remember the year.

13 Q Was it in the last five years?

14 A No.

15 Q Was it in the last ten years?

16 A No.

17 Q Was it in the last 15 years?

18 A No.

19 Q The last 20 years?

20 A No.

21 Q Last 25 years?

22 A Yes.

23 Q So around 1990 or so; would that be fair to say?

24 A Around there, yes.

25 Q What was the associate's degree in?

1 A Paralegal.

2 Q Do you have any other certificates or
3 accreditations, degrees, in addition to the associate's
4 degree?

5 A Yes.

6 Q And what are those?

7 A I'm a certified legal assistant by the National
8 Association of Legal Assistants.

9 Q When did you achieve that?

10 A Around 1995.

11 Q Now, I know you've had your deposition taken before.
12 You indicated that a few minutes ago, but I'm just going to go
13 through some quick ground rules just to refresh your memory as
14 to what it is we're going to be doing here today. I'm going
15 to be asking you a series of questions that I'm going to be
16 requiring you to answer.

17 If at any time you don't understand my question, I
18 need you to say so because if you answer the question, I'm
19 going to assume that you understood it. So if I need to
20 rephrase the question in a way for you to understand it,
21 please don't hesitate to ask me to do that. This is not a
22 marathon. If you need to take a break at any time, simply say
23 so, we'll stop. My only caveat to that is if there's a
24 question already pending, I'm going to ask you to answer that
25 question before we stop.

1 In addition, I know you're represented by counsel
2 here today. It's not my intention to ask any questions that
3 are believed to be protected by the attorney-client privilege
4 or any other known privileges. If I do inadvertently wade
5 into those waters, I would expect that your attorney will
6 probably object, and then we can take it from there.

7 It's also important that we verbalize our answers.
8 We all have a tendency to say uh-huh instead of yes or huh-uh
9 instead of no and nod our heads to mean no or up and down to
10 say yes. As you can see, this is being transcribed so it's
11 going to be very important that you verbalize your answers so
12 that we can read the transcript back and know exactly what
13 your answer was.

14 The other thing is you may know exactly what I'm
15 asking you before I finish my question. If you can, just wait
16 until I finish the question before you answer so we're not
17 talking over one another. I'm going to try to extend the same
18 courtesy to you as well. Do you have any questions about this
19 process today?

20 A No.

21 Q I am handing you a document that is identified as
22 Exhibit 1. If you wish to take a couple minutes to look
23 through that document, feel free. Just let me know when
24 you're ready.

25 MR. KOVAL: Off the record.

1 (Discussion off the record.)

2 BY MR. CHAPMAN:

3 Q And you can just let me know when you're finished.

4 A Okay.

5 Q Ma'am, have you seen that document that's in front
6 of you before today?

7 A All but the proof of service.

8 Q And I believe we've already established that you're
9 here today to testify on behalf of Citibank, N.A. with respect
10 to that document, that subpoena that's identified as Exhibit
11 1. Would that be correct?

12 A Yes.

13 MR. THREADCRAFT: Subject to the response
14 that was served by Citibank.

15 MR. KOVAL: You're referring to -- you marked
16 Exhibit A, didn't you?

17 MR. THREADCRAFT: Exhibit A, yeah.

18 BY MR. CHAPMAN:

19 Q To the best of your knowledge -- and let me back up
20 real quick. I'm going to be referring throughout this
21 deposition to Citibank. What I mean by that is Citibank,
22 N.A. I know there's obviously other Citibank entities. So
23 for the sake of this deposition, unless I state otherwise, do
24 you understand if I say Citibank, I'm referring to Citibank,
25 N.A.?

1 A Yes.

2 Q Was Citibank served with that subpoena that's
3 identified in Exhibit 1?

4 A Yes.

5 Q How did you receive that document?

6 A Kelly Umstott works for me. She's the person who
7 was served, and she gave it to me.

8 Q Kelly -- can you spell her last name for me, please?

9 A U-M-S-T-O-T-T.

10 Q What is her position?

11 A She is a legal support specialist.

12 Q Does she work in the same office as you?

13 A Yes.

14 Q Who selected you to appear today for purposes of
15 this deposition?

16 MR. THREADCRAFT: I'm going to object. Well,
17 go ahead. That's fine.

18 THE WITNESS: In-house counsel.

19 BY MR. CHAPMAN:

20 Q Do you recall the identity of the counsel that
21 selected this for you?

22 MR. THREADCRAFT: Let's go off the record for
23 a second.

24 (Discussion off the record.)

25 MR. THREADCRAFT: All right. Let's go back

1 on.

2 BY MR. CHAPMAN:

3 Q Do you recall the name of that individual?

4 A Yes.

5 Q What is his or her name?

6 A Andrew Moritz.

7 Q Is that M-O-R --

8 A R-I-T-Z.

9 Q M-O-R-I-T-Z; is that correct?

10 A Correct.

11 Q When you look at that Exhibit 1, and you flip back
12 to the page at the top that says, subpoena to testify at
13 deposition, Exhibit A, do you see that page?

14 A Yes.

15 Q And do you see where there's 12 separate paragraphs
16 spread over three pages, three subsequent pages?

17 A Yes.

18 Q Do you have knowledge today as to testify to the
19 topics contained within these 12 paragraphs?

20 A Yes.

21 Q When we look at the page that says subpoena to
22 testify at deposition, Exhibit A, which is contained in
23 Exhibit 1, do you see below where it says, deposition topics,
24 there's a word that says note, and then there's some bolded
25 text there?

1 A Yes.

2 Q Does Citibank's records reflect that Glenn M. Cox is
3 a customer of Citibank?

4 A He was.

5 Q And did he have a credit card account with Citibank?

6 A Yes.

7 Q And do Citibank's records reflect that that account
8 number was 634570600?

9 A I would have to looked at the records we produced to
10 verify the number.

11 Q Do Citibank's records reflect that the Glenn Cox
12 account was originated in May of 1992?

13 A Again, I would need to look at the records that were
14 produced to verify the date.

15 Q And with respect to the last known address of
16 Mr. Cox that's indicated here on this deposition -- this
17 Exhibit A to the subpoena to testify at deposition, are you
18 able to tell from -- do Citibank's records reflect that that
19 was the last known address for Mr. Cox?

20 A I would need to look at the records that were
21 produced to verify that.

22 Q I've asked you a couple questions now about the
23 specific account, and the response was you would need to look
24 at certain records to verify the information. Can you tell me
25 what records you would need to review?

1 A I would look at the screen prints and the billing
2 statements to verify the account number, address and contract
3 date.

4 Q Okay. Thank you. I believe your testimony earlier,
5 and you can correct me if I'm wrong, is you are employed by
6 Citigroup Management Corporation; is that correct?

7 A Yes.

8 Q What is your current position?

9 A I am a manager of the subpoena compliance and
10 restraining orders unit, and I am a vice president of
11 Citibank, N.A.

12 Q And how long have you held that position?

13 MR. THREADCRAFT: Which one?

14 BY MR. CHAPMAN:

15 Q Well, is this -- is manager of subpoena compliance
16 unit and vice president of Citibank, is that one title, or is
17 that multiple titles?

18 A Two titles.

19 Q Two titles, okay. So let's take these apart. How
20 long have you been the manager of the subpoena compliance
21 unit?

22 A I don't remember the date. It would have been in
23 the late '90s.

24 Q Would you say that you have been the manager of the
25 subpoena compliance unit for 20 years?

1 A Yes.

2 Q More than 20 years?

3 A It's possible.

4 Q More than 25 years?

5 A I don't believe so.

6 Q What are your duties as the manager of the subpoena
7 compliance unit?

8 A I manage the legal services intake unit, and I
9 manage the staff that process subpoenas and restraining orders
10 for the Citi consumer businesses.

11 Q And who do you report to?

12 A I report to in-house counsel.

13 Q Would that be Andrew Moritz?

14 A No.

15 Q Who is your immediate supervisor?

16 MR. THREADCRAFT: Why is that important?

17 MR. CHAPMAN: Well, it could be very
18 important for a number of reasons, for the reasons
19 that we just discussed a few minutes ago.

20 MR. THREADCRAFT: Which are what, why she was
21 designated to provide this testimony?

22 MR. CHAPMAN: It could be that. It could be
23 if there's knowledge that she doesn't have that
24 somebody else may have.

25 MR. THREADCRAFT: I just don't -- I mean, I'm

1 letting you ask the question. I'm not sure who
2 she -- what that has to do with --

3 MR. CHAPMAN: Well, I mean, you can object to
4 it. I mean, I think we're entitled to the answer to
5 the question as to who her boss it.

6 MR. THREADCRAFT: All right. That's fine.

7 THE WITNESS: John Preston Turner.

8 BY MR. CHAPMAN:

9 Q Is Mr. Turner located -- is his office located at
10 the same location as yours?

11 A No.

12 Q Do you know where his office is located?

13 A Yes.

14 Q Where would that be?

15 A Baltimore, Maryland.

16 Q Now, with respect to your position as vice president
17 of Citibank, how long have you maintained that position?

18 A It would have been sometime late 2011, I believe.

19 Q And what are your duties as the vice president of
20 Citibank?

21 MR. THREADCRAFT: Currently?

22 BY MR. CHAPMAN:

23 Q Currently, yes.

24 A I manage the subpoena compliance and restraining
25 orders unit for the consumer businesses.

1 Q And with respect to your role as vice president of
2 Citibank, do you report to Mr. Turner as well?

3 A Yes.

4 Q Other than manager of subpoena compliance unit and
5 the vice president of Citibank, have you held any other
6 positions with the company?

7 A Yes.

8 Q What are those?

9 MR. THREADCRAFT: And I'm just trying to be
10 helpful here. When you say Citibank, you mean
11 Citibank, N.A. or Citibank and its predecessor
12 entity? Because I want to make sure it's clear for
13 the record.

14 BY MR. CHAPMAN:

15 Q I'm asking, have you been employed with any other
16 Citibank entity other than your current entity?

17 A Yes.

18 Q Okay. What would that be?

19 A Citibank (South Dakota), N.A.

20 Q When was that?

21 A From December 23rd, 1986 through June 30, 2011, I
22 believe.

23 Q And what duties did you have with Citibank (South
24 Dakota)?

25 A I worked as an administrative assistant. I worked

1 as a legal secretary, and I worked as a paralegal before
2 becoming a manager.

3 Q New, at some point you became employed by the
4 current entity you're employed with. Are you able to tell me
5 how that came to be?

6 A Yes.

7 Q And what are the circumstances surrounding that?

8 A The legal department within which I worked became --
9 was migrated into a -- what we call a global function, and so
10 at that time, they changed our employer from Citibank (South
11 Dakota), N.A. to Citigroup Management Corp.

12 MR. KOVAL: Off the record for one second.

13 (Discussion off the record.)

14 BY MR. CHAPMAN:

15 Q Ma'am, did you review any documents ahead of this
16 deposition today?

17 A Yes.

18 Q What documents were those?

19 MR. THREADCRAFT: Go ahead. Well, I'll tell
20 you what. I want to be careful here because what
21 she did with counsel, I think would be covered by
22 the attorney-client privilege and the work product
23 doctrine so -- I think I understand where you're
24 going. I don't think you're trying to get there.

25 MR. CHAPMAN: Yeah, I have no intention of

1 asking anything about the content of any
2 communication between the deponent and counsel. I'm
3 just asking if she looked at documents, and if the
4 testimony was yes, what she looked at.

5 MR. THREADCRAFT: Well, and I think if those
6 documents were provided by counsel, that would be
7 covered by the privilege. I want to let you ask
8 your questions. I just want to be -- you know, not
9 have any violation of the attorney-client privilege
10 so, you know, I'm not sure how to best handle that
11 situation.

12 MR. CHAPMAN: Okay. Well, here's what I can
13 do --

14 MR. THREADCRAFT: We can go off the record
15 for this.

16 MR. CHAPMAN: I don't think we need to go off
17 the record. I'm going to hand you a very large
18 exhibit that's identified as Exhibit 2, and those
19 documents are Bates stamped 000001 through 000334.
20 And if you want to take a moment to take a look at
21 those, let me know when you're done.

22 MR. THREADCRAFT: Do you want her, just to be
23 clear, to look at every single document?

24 MR. CHAPMAN: Well, it's up to her. You'll
25 see by the nature of the question I'm about to ask,

1 if she wants to go back and look at them, she
2 certainly can.

3 MR. THREADCRAFT: Okay. Look at all of them.
4 What's your next question? Maybe if she looks
5 through it, that will help advise her.

6 MR. CHAPMAN: Well, the question, is -- are
7 we off the record?

8 MR. THREADCRAFT: That's fine.

9 (Discussion off the record.)

10 BY MR. CHAPMAN:

11 Q Before you is a large exhibit that we've identified
12 as Exhibit 2, and that contains a number of pages Bates --
13 I'm going to leave out the zeroes to proceed the page numbers
14 if that's okay with everybody. For instance, the batch of
15 documents in front of you says Bates 000001 through 000334.
16 Do you see that?

17 A Yes.

18 Q If I just refer to these as, for instance, documents
19 1 through 334, will you understand what I'm referring to?

20 A Yes.

21 Q Have you seen those documents before today?

22 A Yes.

23 Q And did you review those documents in preparation
24 for this deposition?

25 A Yes.

1 Q Did Citibank produce those documents?

2 A Yes. Most of them. Yes, we produced them.

3 MR. THREADCRAFT: Is your question, did I
4 send them to the attorney? I can go ahead and say,
5 yes, based on my review of these documents, those
6 are the -- if that's what your question was.

7 BY MR. CHAPMAN:

8 Q Yes, that's what the question was.

9 A Yes.

10 Q And those were produced in response to the subpoena;
11 is that correct?

12 MR. THREADCRAFT: Well, she didn't -- just
13 for clarity, I'm the one that produced them so we
14 produced the Bates stamped documents in response to
15 the subpoena, but she didn't actually produce them
16 so she wouldn't have actual knowledge of what we
17 did, besides what we told her.

18 BY MR. CHAPMAN:

19 Q Let's just flip back to Exhibit 1 real quick, which
20 is the subpoena, and I just neglected to clarify something.
21 If you flip to the page that says subpoena to testify at
22 deposition, Exhibit A, do you see that?

23 A Yes.

24 Q And we talked about there's some bold text that has
25 some -- what are purported to be identifiers of the Glenn Cox

1 account. Do you see that?

2 A Yes.

3 Q Throughout this deposition, when I'm referring to
4 the Glenn Cox account, I'm probably just going to refer to it
5 as either the credit card account or the account. So do you
6 understand from here on out when I say the credit card account
7 or the account, this is the account that I'm referring to?

8 A Yes.

9 Q Does Citibank issue credit card accounts?

10 A Yes.

11 Q And to the best of your knowledge, are those credit
12 card accounts typically governed by written terms and
13 conditions?

14 A Yes.

15 Q And to your knowledge, do those written terms and
16 conditions change from time to time?

17 A Yes.

18 Q To the best of your knowledge, is it Citibank's
19 policy to provide its customers with copies of the terms and
20 conditions of the credit card accounts?

21 A Yes.

22 Q And are those terms and conditions -- are those
23 usually -- do those usually have a name to them, such as like
24 cardmember agreement or cardholder agreement or something like
25 that?

1 A Yes.

2 Q What do you typically call those terms and
3 conditions documents?

4 A Card agreement.

5 Q So throughout this proceeding this morning, when we
6 talk about terms and conditions or cardholder agreements or
7 cardmember agreements, I'm just going to call them card
8 agreements. Would you understand that that's what I'm
9 referring to at that point?

10 A Yes.

11 Q Is it Citibank's policy to notify a consumer when
12 there is a change or modification to the card agreement?

13 A Yes.

14 Q Are these modifications or changes typically placed
15 in writing?

16 A Yes.

17 Q Are these changes to the card agreements typically
18 sent to consumers?

19 A Yes.

20 Q Would this be by physical mail?

21 MR. THREADCRAFT: I'm going to object to the
22 form of the question.

23 BY MR. CHAPMAN:

24 Q I can rephrase that better. What method does
25 Citibank typically provide its consumers or its customers

1 with modifications to their card agreements?

2 MR. THREADCRAFT: Are you asking her
3 individually?

4 MR. CHAPMAN: I'm asking her just if she
5 knows, yeah.

6 MR. THREADCRAFT: Individually, okay.

7 THE WITNESS: By mail.

8 BY MR. CHAPMAN:

9 Q And I believe we established -- and we can back up
10 if we didn't establish this already -- that when consumers
11 originate an account, they receive a card agreement; is that
12 correct?

13 MR. THREADCRAFT: I'm going to object to the
14 form as to what you mean by originate an account
15 but --

16 BY MR. CHAPMAN:

17 Q Well, you testified that Citibank originates credit
18 card accounts. Would that be accurate?

19 A Yes.

20 Q When Citibank originates a credit card account, is
21 it its policy and practice to provide the consumer with a card
22 agreement that governs the terms and conditions of that credit
23 card account?

24 MR. THREADCRAFT: I'm going to object to the
25 form of the question.

1 BY MR. CHAPMAN:

2 Q Do you understand the question? I can rephrase it
3 if you don't understand the question.

4 MR. THREADCRAFT: I'm objecting to the form
5 of the question. I can tell you why if you want me
6 to.

7 BY MR. CHAPMAN:

8 Q Well, if she understand it, she can answer it. If
9 she wants me to rephrase it, I'll rephrase it.

10 A Yes.

11 Q Yes is the answer, or, yes, you want me to rephrase
12 it?

13 A I believe I understand the question.

14 Q And your answer to that question is yes?

15 A Correct.

16 Q Are these card agreements sent by mail to Citibank's
17 customers?

18 A Yes.

19 Q I would like to direct your attention to pages
20 160 -- let's see here. I tell you what. Let me just change
21 the order here a little bit. Let's take a look at pages 80 to
22 93 of Exhibit 2.

23 A Okay.

24 MR. KOVAL: I'm sorry. Again, the page
25 numbers?

1 BY MR. CHAPMAN:

2 Q 80 to 93. And you can let me know when you've
3 finished reviewing that document.

4 A Okay.

5 Q Have you seen this document before, the document
6 that's identified as pages 80 to 93.

7 A Yes.

8 Q What is this document?

9 A This is a printout of the de-archived notes from the
10 account.

11 MR. KOVAL: I'm sorry. What was the
12 word you said in front of archived?

13 THE WITNESS: De-archived.

14 MR. KOVAL: De-archived?

15 MR. CHAPMAN: D, as in dog; is that right?

16 MR. KOVAL: You mean de like D-E?

17 THE WITNESS: D-E.

18 BY MR. CHAPMAN:

19 Q D-E, okay. Is this document something that's made
20 and kept in the ordinary course of Citibank's regularly
21 conducted business activity?

22 A Yes.

23 Q And is this document something that's routinely made
24 and kept in the course of Citibank's business?

25 A Yes.

1 Q And do the entries contained in this document, were
2 these made at or near the time of the events or transactions
3 that are reflected in this document?

4 A Yes.

5 Q And was this document either made or transmitted by
6 someone at Citibank with knowledge as to the transactions
7 within this document?

8 A Yes.

9 Q You had identified this document as the de-archived
10 notes of the account; is that correct?

11 A Yes.

12 Q And when we talk about the account, are we talking
13 about the Glenn Cox account?

14 A Yes.

15 Q Does this document contain any identifiers that
16 would allow you to identify the account number associated with
17 Glenn Cox?

18 A Yes.

19 Q And where would that be?

20 A On the top line after his name.

21 Q Would that be where it reads 7099634570600?

22 A Yes.

23 Q And do all of the pages of this document that we're
24 looking at, pages 80 through 93, are these connected to, or do
25 they involve the Glenn Cox account?

1 A Yes.

2 Q Does this document enable you to identify the last
3 known address of Glenn Cox?

4 A No.

5 Q Does this document enable you to identify the date
6 that the account was originated or opened?

7 A No.

8 Q Now, we've identified this document as the
9 de-archived notes of the account. Can you tell me what that
10 means?

11 A These are notes that are no longer on our current
12 account system. They were purged. And in order to retrieve
13 them, we had to run a report and pull them out of the archived
14 note file.

15 Q Are you familiar with the purging of documents
16 policy of Citibank?

17 MR. THREADCRAFT: You're asking her
18 individually?

19 BY MR. CHAPMAN:

20 Q Yes, if she knows.

21 A No.

22 MR. THREADCRAFT: And when I say
23 individually, I mean, like not as a spokesperson
24 for Citi.

25 BY MR. CHAPMAN:

1 Q Right. Does this document, and I'm referring to
2 pages 80 to 93. Does this reflect activity related to the
3 Glenn Cox's account?

4 A Yes.

5 Q Does this document reflect all activity related to
6 the Glenn Cox account?

7 A No.

8 Q For the -- the answer is no? Okay. How far back in
9 time does this document, pages 80 to 93, reflect transactions
10 on the Glenn Cox account?

11 A Back to 7-1-06.

12 Q Are you able to tell from this document, pages 80 to
13 93, whether there were transactions on the account prior to
14 7-1-2006?

15 A No.

16 Q Do you know whether there were transactions on the
17 Glenn Cox account prior to 7-1-06?

18 A Can you define transactions?

19 Q Sure. Any activity related to his credit card
20 account.

21 A So not just charges but inquiries or --

22 Q Right.

23 A Can you restate the question?

24 Q Sure. Do you know whether -- I think I can phrase
25 this in a way that is probably better for you. Do you know

1 whether, from this document, pages 80 to 93, whether there are
2 any -- whether there are any -- there's any activity on the
3 Glenn Cox account prior to the first entry on this document?

4 A No.

5 MR. THREADCRAFT: Object to form, asked and
6 answered.

7 MR. KOVAL: I couldn't hear your objection.

8 MR. THREADCRAFT: Asked and answered.

9 BY MR. CHAPMAN:

10 Q So for the period -- I'm sorry. Let me back up.
11 What is the last date of any transaction reflected in this
12 document, pages 80 to 93? And when I say last date, I'm
13 referring to the most current date.

14 A Oh, the most current date, okay. January 6, 2012.

15 Q So does this document, pages 83 to 93, reflect all
16 of the activity associated with the Glenn Cox account for the
17 period of July 1st, 2006 through January 6, 2012?

18 MR. THREADCRAFT: Object to the form.

19 THE WITNESS: No.

20 BY MR. CHAPMAN:

21 Q Tell me what activities would not be reflected in
22 this document, pages 83 to 93, for this time period that
23 we've established as 7-1-06 to 1-6-2012.

24 A Some examples would be purchases, payments, interest
25 charges, late fees.

1 Q How would you describe the types of entries that are
2 on -- that are contained on this document, pages 80 to 93?
3 What kinds of things are on this document?

4 A I would call them account notes.

5 Q Do these account notes reflect when credit card
6 agreements or -- I'm sorry. What was the phrase we used to
7 talk about them? Card agreements. Does this document, pages
8 80 to 93, reflect when card agreements would have been sent to
9 Mr. Cox?

10 A It reflects when change in terms notices were sent.

11 Q Can you show me on this document, where we can find
12 a reflection of a change in term notice?

13 A Yes.

14 Q Okay. Where would that be? And if you would like,
15 you can use the page numbers there at the bottom of the page.

16 MR. THREADCRAFT: He means the Bates stamp
17 numbers.

18 BY MR. CHAPMAN:

19 Q Yeah.

20 A Page 88. The first entry from May 2nd, '08 shows a
21 change in terms.

22 MR. KOVAL: Just hold on one second, please.

23 Okay. I'm sorry. Are you talking about the entry
24 of --

25 THE WITNESS: The top of the page.

1 MR. KOVAL: The top of the page. Okay. The
2 very first entry?

3 THE WITNESS: Yes.

4 MR. KOVAL: Okay. Thank you.

5 BY MR. CHAPMAN:

6 Q Would that be the entry that starts with CM-819 in
7 the upper left corner?

8 A Yes.

9 Q And that's the June 2010 archived 0001 memo; is that
10 correct?

11 A I don't know what you're referring to.

12 Q Well, I'm looking at page 88. Do you see where
13 there's some words that are bold?

14 A Oh, yes. Sorry.

15 Q Is that -- what are those that are in bold? What do
16 those mean?

17 A That is an indication that notes were archived on --
18 from that -- in that month and year.

19 Q Okay. And then below that -- below the one we're
20 looking at, which says FDR ARCHIV 061910, on page 88 -- do you
21 see that?

22 MR. THREADCRAFT: I'm sorry. Say that again.

23 MR. CHAPMAN: All right. We're looking at
24 page 88.

25 MR. THREADCRAFT: Right.

1 BY MR. CHAPMAN:

2 Q And you see the bolded line that says FDR, and then
3 ARCHIV 061910. Do you see that?

4 A Yes.

5 Q And then below it there's CM-819, correct?

6 A Yes.

7 Q This is the line that you're referring to -- the
8 entry that you're referring to that indicates that a
9 modification was sent; is that accurate?

10 A Actually, a couple lines down where it says,
11 2008/05/02, ADD CMS, OPL, CIT.

12 Q Okay. Do you know, for instance, above that it says
13 account number; is that right?

14 A Yes.

15 Q And that's the account number that we've identified
16 as the Glenn Cox account; is that accurate?

17 A It is.

18 Q And what does ADD mean?

19 A I don't know.

20 Q Do you know what CMS means?

21 A No.

22 Q Do you see the line underneath the word text? It
23 reads OPL CIT - June 2008 - statement insert, and then there's
24 some more language beyond that.

25 A Yes.

1 Q Do you know what those -- what that string of text
2 means?

3 A Yes.

4 Q What does that mean?

5 A Oil private label change in terms June 2008,
6 statement insert segment one, and the form code for the change
7 in terms is CTCIT508.

8 Q Does this document, and I'm referring to the entire
9 document, 80 through 93, contain any other entries that would
10 indicate a modification in the terms of the card agreement?

11 A I don't see any, no.

12 Q If there were any further or additional
13 modifications to the terms and conditions of the card
14 agreement, would it be reflected in this document that's Bates
15 pages 80 to 93?

16 MR. THREADCRAFT: Object to the form.

17 THE WITNESS: It could be.

18 BY MR. CHAPMAN:

19 Q So we're not able to tell, would that be correct,
20 from this particular document, pages 80 to 93, whether there
21 were any further changes in conditions to the Glenn Cox
22 account? Would that be accurate?

23 MR. THREADCRAFT: Object to the form.

24 THE WITNESS: It's not the only document I
25 would rely on.

1 BY MR. CHAPMAN:

2 Q What other document would you rely on to find out
3 if there were any subsequent changes to the terms and
4 conditions of the card agreement?

5 A The document Bates stamped 94 through 97, and I
6 would also look at the billing statements that are marked as
7 169 through 334.

8 Q Okay. Well, then let's take a look at pages 94 to
9 97. Do you see that document?

10 A Yes.

11 Q Have you seen that document before?

12 A Yes.

13 Q What is this document?

14 A These are the more recent account notes for the
15 Glenn Cox account.

16 Q Is this document, and I'm referring to pages 94 to
17 97, a document that is made and kept in the course of
18 Citibank's regularly conducted business activity?

19 A Yes.

20 Q And is this document, pages 94 to 97, a document
21 that is routinely made and kept in the course of Citibank's
22 business?

23 A Yes.

24 Q And does this document, pages 94 to 97, does this
25 reflect entries that are made at or near the time of the

1 events or the transactions that are referenced within this
2 document?

3 A Yes.

4 Q And was this document, pages 94 to 97, was this made
5 by or was this transmitted by someone with knowledge in the
6 regular course of Citibank's business?

7 A Yes.

8 Q So you indicated these are more recent notes than
9 the documents that we just looked at, which were Bates stamped
10 80 to 93; would that be accurate?

11 A They are more recent notes. There might be some
12 that are duplicate or a crossover in time frame with the
13 document we were looking at previously.

14 Q Is the document that we have here as pages 94 to 97,
15 was this created on a different system than the documents we
16 looked at as pages 80 to 93?

17 A Yes.

18 Q Do you know the reason why these account notes were
19 created on two different systems?

20 MR. THREADCRAFT: Are you asking her
21 personally?

22 BY MR. CHAPMAN:

23 Q Yes, if she knows.

24 A Yes.

25 Q And why was that?

1 A The current system, which houses the notes that are
2 shown on page 94 through 97, has a space capacity, and at some
3 point, when it gets full, then older certain note types are
4 archived to a different system, and so to retrieve the older
5 notes, we have to de-archive them from the other system.

6 Q Okay. When we look at pages 94 to 97, are you able
7 to tell me what the earliest entry is on this document, in
8 other words, the farthest back in time this document would
9 reflect activity?

10 A Yes.

11 Q And what date is that?

12 A July 28, '08.

13 Q Now, what would be the most current activity
14 reflected on this document, pages 94 to 97?

15 A 8-22-14.

16 Q If we were to take Bates pages 83 to 93, and Bates
17 pages 94 to 97 together, and look at them as one document,
18 would these two documents combined show all of the
19 transactions on the Glenn Cox account for the time period of
20 July 1st, 2006 to August 22nd, 2014?

21 MR. THREADCRAFT: Object to the form.

22 THE WITNESS: No.

23 BY MR. CHAPMAN:

24 Q If we took both of these documents together, and
25 specifically I'm referring to Bates pages 83 to 93 and Bates

1 pages 94 to 97, would they reflect all changes to the terms
2 and conditions of the Glenn Cox account?

3 MR. THREADCRAFT: Object to the form.

4 THE WITNESS: No.

5 MR. KOVAL: It's -- at least I'm showing on
6 my watch, it's about two after 11:00. We've been
7 going about an hour. If we could just take a five
8 or ten-minute break.

9 MR. THREADCRAFT: Yeah, I like to go every
10 hour. I don't want to interrupt your --

11 MR. CHAPMAN: That's fine. I don't think I'm
12 in a question.

13 MR. THREADCRAFT: And I didn't want to
14 destroy your line of thought.

15 (A recess was taken.)

16 BY MR. CHAPMAN:

17 Q I just want to clear up, I think there was some
18 confusion as to exactly what documents we were talking about
19 the last few minutes here so in an effort to clean this up
20 some, I'm going to try to be very clear. If we look at Bates
21 pages 80 through 97, you do see those documents?

22 A Yes.

23 Q Taken together, would pages 80 through 97 reflect
24 all changes to the terms and conditions of the Glenn Cox
25 account for the period of July 1st, 2006 through the period of

1 January 6th, 2012?

2 A Yes.

3 Q And we talked about on page 88, that there was a
4 change in terms of conditions that's identified as CTCIT508;
5 would that be correct?

6 A Yes.

7 Q And that would be the form -- that would be the name
8 of the form that contained -- the name of the form that's on
9 the document that contains those changes to the terms and
10 conditions; is that right?

11 MR. THREADCRAFT: Object to the form.

12 THE WITNESS: Yes.

13 BY MR. CHAPMAN:

14 Q Okay. Well, let me just -- let me just try to
15 clean this up a little bit. When it says CTCIT508, what does
16 that mean?

17 A It's a form code.

18 Q And what is your understanding of what a form code
19 is?

20 A It's a form code that identifies the change in terms
21 sent or noted on an account.

22 Q Do you know whether a document containing the --
23 containing the word or the letter CTCIT508 would have been
24 sent to Mr. Cox?

25 A Yes.

1 Q And would that document be in the form of a card
2 agreement?

3 MR. THREADCRAFT: Object to the form.

4 THE WITNESS: Yes.

5 BY MR. CHAPMAN:

6 Q And so if I had a card agreement from Citibank and
7 on that document I saw CTCIT508, would I be able to identify
8 it as this particular modification that we're talking about
9 on page 88?

10 A I don't know if you'd be able to do that.

11 Q Are the documents that contain CTCIT508, do those
12 all contain the same terms and conditions?

13 A Yes.

14 Q And so for instance if I had a card agreement that
15 contained CTCIT508 here in front of me, and the person to my
16 right had a document that had CTCIT508 on the document, and
17 these were both documents that were issued by Citibank, would
18 they be the same document?

19 MR. THREADCRAFT: Object to the form.

20 BY MR. CHAPMAN:

21 Q Would they contain the same text?

22 MR. THREADCRAFT: The same objection.

23 THE WITNESS: They should unless, you know,
24 they're different drafts or something.

25 BY MR. CHAPMAN:

1 Q Is there any way to tell if one document with
2 CTCIT508 is different from another one, just by this form
3 code?

4 A I would have to look at the documents.

5 Q Is there any identifier in this entry contained on
6 page 88 that we're looking at that would indicate to you the
7 specific CTCIT508 that's associated with the Glenn Cox
8 account?

9 A It would also have to match the date it was sent.

10 Q Where would we find that?

11 A Well, this -- I would look at the notes -- these
12 notes in conjunction with the billing statement and the change
13 in terms.

14 Q If we're looking at this document, what specifically
15 would you be looking at on this page 88, to indicate the
16 specific form of CTCIT508 that we're talking about today?

17 A Well, because the note is dated 5-2-08, and it says
18 it was a statement insert, I would go to the statements and
19 verify the exact statement date with which it was enclosed,
20 and then I would go to the form CTCIT508 and verify that the
21 date was, you know, either April or May of '08, that would
22 have been the form that would have gone to the customer.

23 Q When we look at page 88, let's go down a few lines.
24 Do you see the bold text that says FDR ARCHIV 051510 and then
25 0546 --

1 A Yes.

2 Q -- and May 2010?

3 A Uh-huh.

4 Q This one also says ADD in that entry; is that right?

5 A Yes.

6 Q What does that mean?

7 A I don't know what the ADD means.

8 Q Does it reflect that there was a change in terms and
9 conditions on the account?

10 MR. THREADCRAFT: Object to the form.

11 THE WITNESS: The letters ADD? I don't
12 believe so, no.

13 BY MR. CHAPMAN:

14 Q So are you able to tell, from looking at pages 80
15 to 97, whether there were any modifications or changes to the
16 Glenn Cox credit card account after the change that we
17 identified on page 88?

18 A I'm sorry. Can you restate the question?

19 Q We've been talking about changes to the terms and
20 conditions of Glenn Cox's credit card agreement that occurred
21 on or about May 2nd, 2008; would that be correct?

22 A Yes.

23 Q When we look at pages 80 through 97, are you able to
24 tell from looking at these documents, whether there were any
25 changes or modifications after that date?

1 A Yes.

2 Q And when would the next one have occurred?

3 A There weren't any.

4 Q There weren't any. Okay. If there were any changes
5 to the terms and conditions after May of 2008, would it be
6 reflected in these documents or identified in documents 80
7 through 97?

8 A Yes.

9 MR. THREADCRAFT: Object to the form.

10 BY MR. CHAPMAN:

11 Q When we look at Bates 94 to 97, does this document
12 contain any information that would enable you to identify the
13 last known address of Glenn Cox?

14 A Yes.

15 Q And where would that be found?

16 A Page 96. Oh, I'm sorry. Each page has the address
17 on it after his name.

18 Q And what is the last known address that's reflected
19 in these documents?

20 A 2994 Kodiak Court, Marietta, Georgia.

21 Q Is there any entry on pages 94 to 97 that would
22 indicate the date that the Glenn Cox account was originated or
23 otherwise opened?

24 A No.

25 Q Do you know whether the Glenn Cox account was

1 charged off at some point in time by Citibank?

2 MR. THREADCRAFT: Object to the form.

3 THE WITNESS: Yes.

4 BY MR. CHAPMAN:

5 Q Do you know when the account was charged off?

6 MR. THREADCRAFT: Object to the form.

7 THE WITNESS: I can find it in these
8 documents.

9 BY MR. CHAPMAN:

10 Q Are you referring to pages 94 to 97 to find that
11 date?

12 A No.

13 Q Where would you look to find that information?
14 Would it be somewhere in the stack of documents that is in
15 front of you that's identified as pages 1 through --
16 through -- I want to say 334? Yes?

17 A What were the numbers again?

18 Q Pages 1 to 334.

19 A Yes.

20 Q Where would you find that information?

21 A I would find it on two places. Page 137.

22 Q 137.

23 A And 166.

24 Q Okay. Let's go back to that one. When we get
25 there -- let's take a look at pages 164 through 168.

1 A Okay.

2 Q Have you seen these documents before?

3 A Yes.

4 Q What would you call this batch of documents, 164 to
5 168?

6 A These are screen prints from the system that houses
7 the Glenn Cox account showing information related to his
8 account.

9 Q Is the document reflected in pages 164 to 168, is
10 this a document that's kept in the ordinary course of
11 Citibank's regularly conducted business activity?

12 A Yes.

13 Q And is this document, 164 to 168, is this a document
14 that's routinely made and kept in the course of Citibank's
15 business?

16 A Yes.

17 Q And was this document, pages 164 to 168 -- does this
18 document, rather, reflect entries that were made at or near
19 the time of the entries that are reflected in this document?

20 A Yes.

21 Q And was this document made by or transmitted by
22 someone with knowledge as to the contents of this document in
23 the regular course of Citibank's business?

24 A Yes.

25 Q So this document, 164 to 168, contains, you

1 communicated, information about the Glenn Cox account; is that
2 correct?

3 A Yes.

4 Q What kind of information is contained in this
5 document?

6 A Well, there's a lot of information about his account
7 in these documents, including the account number, name,
8 address, account opening date, you know, many other things.

9 Q Where would we find the account open date on this
10 document?

11 A On page 164 in the top section, the third line down
12 in the middle says, open date 05-92.

13 Q Would that reflect an open date of May 1992?

14 A Yes.

15 Q Does this document, and I'm referring to pages 164
16 to 168, reflect activity on the Glenn Cox account?

17 MR. THREADCRAFT: Object to the form.

18 THE WITNESS: Yes.

19 BY MR. CHAPMAN:

20 Q What type of activities does this document reflect?
21 And I'm referring to 164 to 168.

22 A It will show things like the last payment date, the
23 charge-off date, last sale date, lots of information.

24 Q What's the last sale date? What does that mean?

25 A The last purchase made on the account.

1 Q Where would we find that on this document?

2 A On page 164 in the second section on the left
3 towards the bottom it says, DT last sale 05-06-08.

4 MR. KOVAL: I'm sorry. I'm not seeing that.
5 What page?

6 THE WITNESS: 164.

7 MR. KOVAL: Yes. Center?

8 THE WITNESS: On the left.

9 MR. KOVAL: On the left, okay.

10 THE WITNESS: Next section down. Go down.

11 MR. THREADCRAFT: She's pointing to it.

12 MR. KOVAL: Oh, thank you. I'm sorry. I see
13 it. Thank you.

14 BY MR. CHAPMAN:

15 Q So just for clarification, DT last sale 01-06-08
16 reflects the date that the last charge was made on the
17 account; would that be accurate to say?

18 A Yes.

19 Q Where do we find the charge-off date?

20 A Page 166 at the very bottom, in the middle column
21 right above where it says page 3, it says, charge-off date.

22 MR. KOVAL: Can you point, if you don't mind?
23 What page is that?

24 THE WITNESS: 166.

25 MR. KOVAL: Thanks.

1 BY MR. CHAPMAN:

2 Q And this reflects a charge-off date of December
3 1st, 2006. Would that be correct?

4 A No. It's the year, the month, the day.

5 Q Oh, I see. Well, it may be easier if you would tell
6 us what date that reflects.

7 A I'm just going to verify. It's January 6, 2012.

8 Q And I believe you indicated a few minutes ago, if
9 not -- I'll tell you what -- I'll just ask you the question
10 again. Does this document, page 164 to 168, reflect the date
11 of the last payment on the Glenn Cox account?

12 A Yes.

13 Q Where would we find that?

14 A On page 164, at the top, the middle column, it says
15 LST PMT DT 6-08-11.

16 Q And would that reflect the last payment on the
17 account being June 8th, 2011?

18 A Yes.

19 Q Does this document, pages 164 to 167, does it
20 reflect when modifications to the card agreement would have
21 been made?

22 A No.

23 Q I would like to direct your attention to a large
24 batch of documents within this Exhibit 2. They're going to be
25 pages 169 to 334.

1 A Okay.

2 Q Do you know what these documents are?

3 A Yes.

4 Q What are they?

5 A These are --

6 MR. THREADCRAFT: Do you want to
7 look through them all?

8 MR. CHAPMAN: Yeah. Do you want to -- if you
9 want to scratch that last question, I'll just start
10 over.

11 MR. THREADCRAFT: Okay. Do you want her to
12 look through them all? Does she need to do that to
13 answer the question?

14 MR. CHAPMAN: It would probably help to
15 determine whether we can do this quickly or slowly.

16 MR. THREADCRAFT: Sure.

17 THE WITNESS: Yes.

18 BY MR. CHAPMAN:

19 Q Before you are documents Bates pages 169 to 334 of
20 Exhibit 2; would that be correct?

21 A Yes.

22 Q Have you ever seen these documents, 169 to 334,
23 before?

24 A Yes.

25 Q Do you know what these documents are?

1 A Yes.

2 Q What are they?

3 A These are the account statements for Glenn Cox's
4 CITGO account.

5 Q Are you able to tell, from looking at pages 169 to
6 334, whether certain of these documents were not originated by
7 Citibank?

8 A Yes.

9 Q Which ones were not originated by Citibank, to the
10 best of your knowledge? And if it helps, just to give me a
11 page range. If it's possible to do it that way, it may be
12 quicker.

13 A These statements were all generated by Citibank
14 while it owned the account.

15 Q Okay.

16 MR. THREADCRAFT: Just to be clear, when we
17 say Citibank, just to clarify that -- let's go off
18 the record for a second.

19 MR. KOVAL: Let's keep this on the record.

20 MR. THREADCRAFT: Okay. When you say
21 Citibank, what do you mean by Citibank, I guess is
22 the question?

23 MR. CHAPMAN: Well, is this Citibank, N.A.,
24 which -- I mean, what -- I need to know what
25 Citibank, I guess. What we have here is a stack of

1 what we've identified as statements, and so I'm
2 going to lay -- try to lay a business records
3 foundation, but it's my understanding -- the witness
4 hasn't said this -- is that some of these she may
5 not be able to testify that they're the business
6 records of Citibank, but if you -- we can try and
7 see where we are.

8 MR. THREADCRAFT: Well, what I was trying
9 to -- rather than just object, I'm trying to be
10 helpful to everybody here, and so I was asking about
11 the use of the word Citibank, and you said Citibank,
12 N.A.

13 MR. CHAPMAN: Right.

14 MR. THREADCRAFT: Okay. So --

15 THE WITNESS: Can you restate the question?

16 BY MR. CHAPMAN:

17 Q In fact, let's try it this way. Let's look at
18 pages 169 to 334. Are these documents that are kept in the
19 course of Citibank's regularly conducted business activity?

20 A Yes.

21 Q And these documents, 169 to 334, are these documents
22 that are routinely made and kept in the course of Citibank's
23 business?

24 A Yes.

25 Q And do these documents, 169 to 334, do these reflect

1 entries that were made at or near the time of the events or
2 transactions that are reflected within these documents?

3 A Yes.

4 Q And were these documents, pages 169 to 334, were
5 these made by or transmitted by someone with knowledge in the
6 regular course of Citibank's business?

7 A Yes.

8 Q To the best of your knowledge, are these documents,
9 169 to 334, in chronological order? And that's not a trick
10 question where I've taken one and moved it out of order. Are
11 you able just to tell generally whether you believe these are
12 chronological from the earliest date --

13 A Yes.

14 Q -- to the most current? Yes. So would it be your
15 testimony that pages 169 through 334 reflect the credit card
16 account statements on the Glenn Cox account from the closing
17 date of 11-1-2003 through the closing date of January 5th,
18 2012?

19 A Yes.

20 Q When we talked about the modification to the terms
21 and conditions of the credit card account that we identified
22 on page 88 as CTCIT508, do you see that?

23 A Yes.

24 Q Would there be a reflection on one or more of these
25 documents that are on pages 169 to 334 of that change?

1 A Yes.

2 Q Where would we find that?

3 A On page 223.

4 Q And I'm looking at Bates page 223. Is this the
5 document that shows a closing date of 5-1-08?

6 A Yes.

7 Q Okay. And tell me where on this page we find the
8 reference to the change.

9 A On the top, under the first box that says, please
10 see the enclosed notice of change in terms for your import --
11 or important -- important information. Sorry.

12 Q But the actual document that contains those changes
13 is not -- is not part of pages 169 to 334; is that correct?

14 A That's correct.

15 Q When we look at pages 169 to 334, is there any other
16 reflection on any of these credit card account statements of a
17 change in terms and conditions?

18 A I'll have to look through them all. There's one on
19 page 189.

20 Q Okay. Let me know if you find any others.

21 A And the one we talked about already on page 223.

22 Q Okay. Any others?

23 A I don't see any others.

24 Q Let's take a look at Bates 2 -- I'll tell you what,
25 let's -- globally speaking, taking a look at pages 169 to 334,

1 do you recognize these documents as being associated with the
2 Glenn Cox account?

3 A Yes.

4 Q Do you recognize the account number associated with
5 the Glenn Cox account on these documents?

6 A Yes.

7 Q And do you recognize the address that's associated
8 with the last known address of Glenn Cox on these documents?

9 A Yes.

10 Q Okay. Let's take a look at page 189. Where is my
11 stack? With page 189 in front of you, I would like you to
12 also separate pages 1 to 13 and -- actually, if you could,
13 separate 1 to 66.

14 MR. KOVAL: Say it again, Michael.

15 BY MR. CHAPMAN:

16 Q Here is what you need to separate, pages 1 to 66,
17 and pages 68 to 79.

18 MR. KOVAL: What was the last one?

19 MR. CHAPMAN: 68 to 79.

20 THE WITNESS: Okay.

21 BY MR. CHAPMAN:

22 Q So let's just set page 189 aside for the moment,
23 and let's take a look at this batch of documents that we just
24 separated, pages 1 to 66 and 68 to 69. Do you see those?

25 A Yes.

1 MS. FRIEDMAN: Do you mean 79?

2 BY MR. CHAPMAN:

3 Q Yes. What did I say, 69? I'm sorry. 1 to 66, 68
4 to 79. Have you ever seen these documents before?

5 A Yes.

6 Q Do you know what they are?

7 A Yes.

8 Q What are these?

9 A Card agreements and change in terms.

10 Q Can you explain, to the best of your knowledge, what
11 Citibank's process is for sending cardmember agreements and
12 changes in terms to card agreements to consumers?

13 MR. THREADCRAFT: Are you asking her
14 individually?

15 BY MR. CHAPMAN:

16 Q Yes.

17 A Well, generally, you get a card agreement with your
18 plastic when your account is opened, and then as terms are
19 changed over time, you would get a change in terms notice.
20 And there may be occasion when, with a change in terms, you
21 will get another full card agreement.

22 Q And I know we talked about this to some extent
23 already, probably to a large extent already, but does Citibank
24 have a process for keeping track of which agreement version is
25 sent to consumers and when they are sent to consumers?

1 MR. THREADCRAFT: I'm going to object to the
2 form. Do you want me to help you or --

3 MR. CHAPMAN: Yeah, go ahead.

4 MR. THREADCRAFT: Time period at issue?

5 BY MR. CHAPMAN:

6 Q All right. Well, let's say from 2002 to the
7 present date. Is there a process that Citibank uses for
8 keeping track of which agreement version is sent to consumers
9 and when they're sent to consumers?

10 A Yes.

11 Q And does that process have a name?

12 A Not that I'm aware of.

13 Q Is that process reflected in any documents?

14 MR. THREADCRAFT: And just to be clear, these
15 questions are asking her individual knowledge,
16 right?

17 MR. CHAPMAN: Uh-huh.

18 MR. THREADCRAFT: Yes.

19 THE WITNESS: I don't know.

20 BY MR. CHAPMAN:

21 Q Is this process reflected on any system, such as a
22 computer system?

23 A I don't know.

24 Q We talked about account notes a little while ago.
25 Other than those account notes, which I believe we indicated

1 would show when credit card agreements and modifications were
2 sent for the specific time period that was reflected in those
3 agreements, is there any other system of documentation or
4 reference that you're aware of that would contain that
5 information?

6 A Yes.

7 Q What would that be?

8 A I would look at the account notes in conjunction
9 with the billing statements.

10 Q And when you're talking about billing statements,
11 are you talking about documents such as what we just looked
12 at, such as pages 169 through 334?

13 A Yes.

14 Q With respect to these documents that we've
15 separated, pages 1 to 66 and 68 to 79, are these documents
16 that are made and kept in the ordinary course of Citibank's
17 regularly conducted business?

18 MR. THREADCRAFT: I'm sorry. Can you repeat
19 that question?

20 BY MR. CHAPMAN:

21 Q Sure. Documents 1 through 66 and pages 68 through
22 79, are these documents that are made and kept in the course
23 of Citibank's regularly conducted business activity?

24 A Not all of them.

25 Q Are certain of these documents not kept in the

1 ordinary course of Citibank's regularly conducted business
2 activity?

3 MR. THREADCRAFT: Object to the form.

4 THE WITNESS: Some of them are not Citibank
5 documents.

6 BY MR. CHAPMAN:

7 Q Okay. Can you identify which ones those are?

8 A Yes. Pages 1 through 26.

9 Q So pages 1 through 26 are not Citibank documents,
10 correct?

11 MR. THREADCRAFT: Object to the form.

12 BY MR. CHAPMAN:

13 Q Is that true, to the best of your knowledge?

14 MR. THREADCRAFT: The same objection.

15 THE WITNESS: Citibank didn't create these
16 documents.

17 BY MR. CHAPMAN:

18 Q Do you know who did create these documents? And
19 I'm referring to pages 1 to 26.

20 A I don't know the individual who created them.

21 Q Look at the top of page 1. Do you see where it
22 says, Associates National Bank, and then in parentheses it
23 says Delaware?

24 A Yes.

25 Q And then page 5 also says at the top Associates

1 National Bank, in parentheses, Delaware?

2 A Yes.

3 Q And then page 9 also says Associates National Bank,
4 in parentheses, Delaware. Do you see that?

5 A Yes.

6 Q And page 13 says the same thing, correct, Associates
7 National Bank (Delaware)?

8 A Correct.

9 Q And below where it says Associates National Bank
10 (Delaware) on pages 1, pages 5, pages 9 and pages 13, it says
11 cardmember agreement below it; is that accurate?

12 A Yes.

13 Q Do you know what Associates National Bank (Delaware)
14 is?

15 A Yes.

16 Q What is it?

17 A It was a national bank that Citi acquired.

18 Q Do you know what Citibank entity acquired Associates
19 National Bank?

20 A Yes.

21 Q Which one was that?

22 A Citigroup acquired Associates First Capital, which
23 Associates National Bank (Delaware) was a part.

24 Q Do you know when this occurred?

25 A Yes.

1 Q When was that?

2 A September 2000.

3 Q In September of 2002, did Citibank acquire the
4 credit card accounts that were owned by Associates National
5 Bank?

6 MR. THREADCRAFT: Object to the form of the
7 question.

8 BY MR. CHAPMAN:

9 Q Do you understand the question?

10 MR. THREADCRAFT: Do you want me to help you?

11 MR. CHAPMAN: It might be better because --

12 MR. THREADCRAFT: I'm going to do the same
13 thing for you, Steve.

14 MR. KOVAL: Yeah, I understand that, but I
15 don't want you testifying for the --

16 MR. THREADCRAFT: No, I'm talking about what
17 the question was, not what the witness said.

18 MR. KOVAL: Okay. Go ahead.

19 MR. THREADCRAFT: I think you said September
20 of 2002, and I think you --

21 MR. KOVAL: Yeah..

22 MR. THREADCRAFT: I'm here to help everybody
23 and --

24 THE WITNESS: Can you restate the question?

25 MR. THREADCRAFT: I thought you said Citibank

1 too, but go ahead.

2 BY MR. CHAPMAN:

3 Q You indicated, I believe, that Citigroup acquired
4 Associates National Bank in September 2002. Would that be --

5 A 2000.

6 MR. THREADCRAFT: Wait. I'm going to object
7 to the form of the question.

8 BY MR. CHAPMAN:

9 Q All right. Let's just take it apart piece by
10 piece.

11 MR. KOVAL: Well, this might be helpful to go
12 off the record for just one second.

13 (Discussion off the record.)

14 BY MR. CHAPMAN:

15 Q Okay. So in September 2000, is it your testimony
16 that Citigroup acquired First Capital Associates?

17 MR. THREADCRAFT: I'm going to object to the
18 form just because you used the wrong name. I'm not
19 trying to be difficult, but do you want her to just
20 tell you?

21 BY MR. CHAPMAN:

22 Q Let's go back. In September of 2002, who acquired
23 who with respect to this account, this cardmember agreement?

24 A Citigroup acquired Associates First Capital, of
25 which Associates National Bank (Delaware) was a part of that

1 entity.

2 Q Okay. And is the entity that made that acquisition
3 still called Citigroup?

4 MR. THREADCRAFT: You're asking her if she
5 knows individually?

6 THE WITNESS: I don't know.

7 BY MR. CHAPMAN:

8 Q Do you know whether at the time of the acquisition
9 of Associates First National Bank, whether these documents
10 we've identified as documents 1 through 26 became the
11 property of Citigroup?

12 MR. THREADCRAFT: I'm going to object to the
13 form of the question. I think I understand what
14 you're saying. And then you're asking her for her
15 individual knowledge; is that right?

16 MR. CHAPMAN: Yep.

17 MR. THREADCRAFT: Okay. Go ahead.

18 THE WITNESS: No, that's not the entity it
19 acquired.

20 BY MR. CHAPMAN:

21 Q What was the entity that it acquired?

22 A Associates First Capital.

23 Q And what is the relationship between Associates
24 First Capital and Associates National Bank (Delaware)?

25 A Associates National Bank (Delaware) was a subsidiary

1 of Associates First Capital.

2 Q At the time of the acquisition of Associates First
3 Capital, did the documents that are reflected in pages 1
4 through 26 become the property of Citigroup?

5 MR. THREADCRAFT: You're asking for her
6 individual knowledge?

7 MR. CHAPMAN: Yes..

8 THE WITNESS: I don't know.

9 BY MR. CHAPMAN:

10 Q Are you able to tell me whether the documents that
11 are identified as 1 through 26 are cardmember agreements that
12 are associated with the Glenn Cox account?

13 A No.

14 Q No, you don't know, or, no, they're not?

15 A I don't know.

16 Q So if I were to ask you, for instance on Bates
17 page 1, where at the top it says 5/01, do you see that?

18 A Yes.

19 Q Would you have any knowledge as to what that means
20 or how it got there?

21 A I wrote it there.

22 Q You wrote there. What does that mean?

23 A That I believe this to be the May '01 version of the
24 card agreement of Associates National Bank (Delaware).

25 Q And if we look at the document that starts on Bates

1 page 5 and runs to Bates page 8, that also says 5/01 at the
2 top; is that correct?

3 A Yes.

4 Q Are the documents that are pages 1 through 4 and 5
5 through 7, are they duplicates?

6 A They are.

7 Q I meant 5 through 8. They're duplicates.

8 MR. KOVAL: So 1 through 4 and 5 through 8
9 are duplicates?

10 MR. CHAPMAN: Yes.

11 BY MR. CHAPMAN:

12 Q And so if we look at pages 9 through 16 -- I'm
13 sorry -- 9 through 12 and 13 through 16, are those
14 duplicates?

15 A Yes.

16 Q So if we look at page 9, it says 9/01 at the top; is
17 that right?

18 A Yes.

19 Q Did you write that?

20 A I did.

21 Q And why did you write that there?

22 A I believed it to be the Associates National Bank
23 (Delaware) agreement in place in 9/01.

24 Q So if we go back to pages 1 through 4, what is
25 the -- what is your basis for believing that this is the

1 Associates National Bank cardmember agreement for May of 2001?

2 A I don't remember. I wrote that on there many years
3 ago.

4 Q Do you have any knowledge as to why it was produced
5 with the Glenn Cox documents that we're looking at today?

6 A Yes.

7 Q Why is that?

8 A We believed it to be a sample or exemplar of the
9 Associates National Bank (Delaware) cardmember agreement that
10 may have applied to Mr. Cox's account.

11 Q And if we look at pages 9 to 12, would that be the
12 same reason why you associated it with the Glenn Cox
13 documents?

14 A Yes.

15 MR. CHAPMAN: All right. What time is it?

16 Do we need to stop?

17 MR. KOVAL: I think we should.

18 (A recess was taken.)

19 BY MR. CHAPMAN:

20 Q Before we broke, we looked at the documents that
21 were labeled Bates 1 through 16, and if I could just draw
22 your attention back to those just for a minute, these are the
23 documents that we identified as containing the words
24 Associates National Bank (Delaware) at the top; is that
25 right?

1 A Yes.

2 Q And largely due to my fault, I think there was a lot
3 of confusion about this ownership issue and the change of
4 hands. To the best of your ability, can you explain the
5 ownership history of the Glenn Cox account?

6 MR. KOVAL: I object to the form of the
7 question.

8 THE WITNESS: Okay. In September of 2000
9 Citigroup acquired Associates First Capital, of
10 which Associates National Bank (Delaware) was a part
11 of that. Associates National Bank (Delaware) merged
12 with Citibank (South Dakota) in January 7, '02. And
13 then Citibank (South Dakota) merged into Citibank,
14 N.A. July 1st, 2011 so the account -- when Citibank
15 got it, it came from Associates National Bank to
16 Citibank.

17 BY MR. CHAPMAN:

18 Q Do you know who originated this account?

19 A No.

20 Q Is it a fair statement to say that the First -- the
21 First National Bank credit card accounts became in possession
22 of Citibank, N.A. at some point?

23 MR. THREADCRAFT: Object to the form.

24 THE WITNESS: We never acquired any accounts
25 from First National Bank.

1 BY MR. CHAPMAN:

2 Q Okay. But somebody acquired some accounts from
3 them; is that right?

4 MR. KOVAL: Object to the form of the
5 question.

6 THE WITNESS: No, that entity was not
7 involved at all. I think you've got the wrong name.

8 BY MR. CHAPMAN:

9 Q Is Citibank, N.A. the current owner of the
10 Associates National Bank (Delaware) credit card accounts?

11 MR. THREADCRAFT: Object to the form.

12 THE WITNESS: I don't understand the
13 question.

14 BY MR. CHAPMAN:

15 Q Does Citibank, N.A. own the credit card accounts
16 that were associated with or were owned by Associates
17 National Bank (Delaware)?

18 MR. THREADCRAFT: Object to the form. I
19 objected to the form of the question. You can
20 answer, if you understand it.

21 THE WITNESS: I don't know whether Citibank
22 acquired all of the accounts that Associates
23 National Bank (Delaware) ever issued.

24 BY MR. CHAPMAN:

25 Q Do you know whether at any time Citibank, N.A.

1 acquired the Glenn Cox account?

2 A Yes.

3 Q When?

4 A When Citibank (South Dakota), N.A. merged into
5 Citibank, N.A. on July 1, 2011.

6 Q Let's take a look at documents 27 to 66.

7 MR. KOVAL: I'm sorry, Michael. Say that
8 again, please.

9 MR. CHAPMAN: 27 to 66.

10 MR. KOVAL: 27 through 66.

11 MR. CHAPMAN: And 68 through 79.

12 BY MR. CHAPMAN:

13 Q And you can tell me when you're ready.

14 A What was the second set of numbers?

15 Q 27 to 66.

16 A Yep.

17 Q 68 to 79.

18 A Okay. I've got them.

19 Q Have you ever seen these documents before? And I'm
20 referring to pages 27 to 66 and 68 to 79.

21 A Yes.

22 Q Do you know what these documents are?

23 A Yes.

24 Q What are these documents?

25 A They are various card agreements and change in terms

1 of Citibank.

2 Q Are these documents, and I'm referring to pages 27
3 to 66 and 68 to 79, are these documents that are made and kept
4 in the course of Citibank's regularly conducted business
5 activity?

6 A Yes.

7 Q Are these documents that I'm referring to, 27 to 66
8 and 68 to 79, are these documents that are routinely made and
9 kept in the course of Citibank's business?

10 A Yes.

11 Q Do these documents, and I'm referring to pages 27 to
12 66 and 68 to 79, do they contain entries that were made at or
13 near the time of the events that are described within those
14 documents?

15 A Yes.

16 Q And were these documents, and I'm referring to 27 to
17 66 and 68 -- these documents I'm referring to, 27 to 66 and 68
18 to 79, were these made or transmitted by somebody with
19 knowledge in the regular course of Citibank's business?

20 A Yes.

21 Q I would like to take a look at documents,
22 specifically, 27 to 30.

23 A Okay.

24 Q And then there's documents 31 to 34. Are you able
25 to tell me whether 27 to 30 and 31 to 34 are duplicates?

1 MR. THREADCRAFT: Just to be clear, are you
2 wanting her to read each line on each piece of
3 paper?

4 MR. CHAPMAN: Well, I think they're just
5 duplicates, but rather than ask questions about
6 them, if she can just say, yeah, they're duplicates.

7 MR. THREADCRAFT: Well, if you're asking her
8 to read each line on each piece of paper, I can
9 certainly do that. Hold on one second. Never mind.
10 Withdraw the objection. Go ahead. You can answer.

11 BY MR. CHAPMAN:

12 Q All right. Let's just go back. Documents 27 to 30
13 and 31 to 34, are these two sets of documents duplicates of
14 one another?

15 A Yes.

16 Q And let's take a look at 35 to 38 and 39 to 42. Are
17 those two sets of documents duplicates of one another?

18 A Yes.

19 Q Okay.

20 MR. THREADCRAFT: He is asking about -- which
21 ones did you say?

22 MR. CHAPMAN: 35 to 38.

23 MR. THREADCRAFT: All right.

24 BY MR. CHAPMAN:

25 Q And then 39 to 42?

1 A Uh-huh.

2 Q I'm pretty sure they are but -- and then 43 through
3 46 and 47 to 50, are those two sets duplicates of one another?

4 A Yes, they are.

5 Q And let's look at 51 to 54 and 55 to 58. Are those
6 two sets of documents duplicates of one another?

7 A Yes.

8 Q And let's look at 59 to 62 and 63 to 66. Are those
9 two sets of documents duplicates of one another?

10 A Yes.

11 Q And finally, Bates pages 68 to 73 and Bates 74 to
12 79, are those two sets of documents duplicates of one another?

13 A Yes.

14 Q Thank you. Okay. Let's take a look at this set of
15 documents that's 27 to 30. Do you know what this document is?

16 A Yes.

17 Q What is this?

18 A This is a notice to credit -- CITGO credit card
19 customers of the merger of Associates National Bank (Delaware)
20 with Citibank (South Dakota), N.A.

21 MR. KOVAL: I'm sorry. What page are we
22 looking at?

23 MR. CHAPMAN: We've looking at the batch
24 that's 27 to 30.

25 MR. KOVAL: Got it. Thank you.

1 THE WITNESS: So this is one sample of the
2 merger notice.

3 BY MR. CHAPMAN:

4 Q When you say sample, do you know whether this
5 particular document was ever mailed to Mr. Cox?

6 A No, I don't know which one he would have gotten.

7 Q If this was sent, and I'm referring to pages 27 to
8 30, would it be reflected in the account notes that we talked
9 about, which are Bates pages 80 through 97?

10 MR. THREADCRAFT: Object to the form.

11 THE WITNESS: No.

12 BY MR. CHAPMAN:

13 Q No, it would not be reflected in those?

14 A No.

15 Q Where would it be reflected if this was sent?

16 A The account notes for that time frame are no longer
17 available.

18 Q Okay. So what is the date of this document? And
19 I'm referring to 27 to 30.

20 MR. THREADCRAFT: Object to the form.

21 THE WITNESS: March 2002.

22 BY MR. CHAPMAN:

23 Q Okay. 2002. And this document was originated by
24 Citibank?

25 MR. THREADCRAFT: Object to the form.

1 THE WITNESS: Yes.

2 MR. KOVAL: Just to clarify, when you're
3 saying Citibank, Michael, my understanding is you're
4 talking about Citibank, N.A.

5 MR. CHAPMAN: Yep.

6 MR. KOVAL: Okay. So if it's something else,
7 you'll make that clear, right?

8 MR. CHAPMAN: I mean, I don't know any
9 different so I'm assuming someone else will.

10 MR. KOVAL: I just want to make sure we're on
11 the same page. We're talking about Citibank.

12 MR. THREADCRAFT: Do you want me to say
13 something? I don't want to interject into this, but
14 she just provided testimony about Citibank (South
15 Dakota), N.A. and Citibank, N.A. so I want to make
16 sure we're clear -- I don't want to interject
17 anything. I think that's what you're trying to
18 clarify now.

19 MR. KOVAL: It is. When I'm hearing Citibank
20 without anything said afterwards, I'm assuming
21 that's Citibank, N.A.

22 MR. CHAPMAN: That's how I am stating it,
23 yes.

24 MR. KOVAL: Let's just be clear, if it's
25 something different, let it be stated differently.

1 BY MR. CHAPMAN:

2 Q Okay. Let's take a look at page 35 to 38. What is
3 this document? Did I just skip one? I did. Let me go back.
4 I'm sorry. I think I missed one. No, I didn't. Okay. So
5 let's take a look at 35 through 38. Is this a Citibank
6 document?

7 A This was -- these are Citibank (South Dakota), N.A.
8 merger notices.

9 Q And can you tell me the approximate date that this
10 would have been sent out?

11 MR. THREADCRAFT: Object to the form.

12 THE WITNESS: It's dated March '02.

13 BY MR. CHAPMAN:

14 Q Would the sending of this document, if it were
15 sent, be reflected in the account notes that we looked at as
16 pages 80 through 97?

17 MR. THREADCRAFT: Object to the form.

18 THE WITNESS: No.

19 BY MR. CHAPMAN:

20 Q And what would the reason for that be?

21 A The account notes for 2002 are no longer available.

22 Q Let's take a look at page 43 to 46, and I'm going to
23 ask you the same series of questions here. Is this a Citibank
24 document?

25 A It's a Citibank (South Dakota) document.

1 Q And can you tell me the approximate date that -- if
2 this was sent, when it would have been sent?

3 MR. THREADCRAFT: Object to the form.

4 THE WITNESS: March 2002.

5 BY MR. CHAPMAN:

6 Q And if this was sent to Mr. Cox, would it be
7 reflected on the account notes we identified as pages 80
8 through 97?

9 A No.

10 Q And what would the reason for that be?

11 A The 2002 account notes are no longer available.

12 Q Let's take a look at 55 through 58. Is that a
13 Citibank document?

14 A No, it's a Citibank (South Dakota) document.

15 Q What is this document?

16 A It's another sample of the merger notice between
17 Associates National Bank (Delaware) and Citibank (South
18 Dakota).

19 Q Are you able to tell from the face of this document,
20 if it were sent, when it would have been sent?

21 MR. THREADCRAFT: Object to the form.

22 THE WITNESS: The document was created in
23 February '02.

24 BY MR. CHAPMAN:

25 Q And if this document were sent to Mr. Cox, would it

1 be reflected on the account notes identified as pages 80 to
2 94?

3 A No.

4 MR. THREADCRAFT: Object to the form, asked
5 and answered.

6 MR. CHAPMAN: Well, not this particular
7 document, it wasn't.

8 MR. THREADCRAFT: Can we go off the record
9 for a second?

10 MR. CHAPMAN: Yeah. I mean, I have one more
11 of these.

12 MR. THREADCRAFT: Okay.

13 BY MR. CHAPMAN:

14 Q Or maybe -- yeah, one more. What was the reason?

15 A I'm sorry. What was your question?

16 Q Why would this, if it were sent to Mr. Cox, not be
17 reflected on the account notes we identified as pages 80 to
18 94?

19 A The notes from 2002 are no longer available.

20 Q And let's take a look at 63 to 66. Is this a
21 Citibank document?

22 A No, it's a Citibank (South Dakota) document.

23 Q And can you tell from the face of this document, if
24 it were sent, when it would have been sent?

25 MR. KOVAL: I object to the form of the

1 question.

2 MR. THREADCRAFT: The same objection.

3 THE WITNESS: February 2002.

4 BY MR. CHAPMAN:

5 Q If this document had been sent to Mr. Cox, would it
6 be reflected in the account notes we've identified as pages
7 80 to 94?

8 A No.

9 Q And why would that be?

10 A The account notes from 2002 are no longer available.

11 Q Okay. Let's take a look at Bates 74 through 79. Do
12 you see that document?

13 A Yes.

14 Q Have you ever seen that document before?

15 A Yes.

16 Q What is this document?

17 A It's a change in terms notice.

18 Q Was this document sent to Glenn Cox?

19 A Yes.

20 Q Do you know whether it's reflected in the account
21 notes that we identified as 80 to 97?

22 A Yes.

23 Q And where would we find that?

24 A On page 88, the first entry for May 2nd, 2008.

25 Q Okay. Would that be the entry that begins in bold

1 with FDR ARCHIV 061910?

2 MR. THREADCRAFT: Object to the form.

3 THE WITNESS: Yes.

4 BY MR. CHAPMAN:

5 Q And that runs five lines or so, would that be
6 correct?

7 A Yes.

8 Q Do you see on page 88 where it references -- and we
9 talked about this earlier -- the form code, CTCIT508?

10 A Yes.

11 Q Does this document, the one that we have here as
12 Bates 74 to 79, is this CTCIT508?

13 A Yes.

14 Q I believe it was your testimony -- and I apologize
15 if I already asked this -- that these account notes do not
16 reflect any additional changes in terms and conditions of the
17 Glenn Cox account after this CTCIT508 change. Would that be
18 correct?

19 MR. THREADCRAFT: Object to the form.

20 THE WITNESS: They do not.

21 BY MR. CHAPMAN:

22 Q If a document such as a notice in change of terms
23 or a cardmember agreement was mailed to a consumer and it was
24 returned for whatever reason, would it be reflected in the
25 account notice that we identified?

1 A Yes.

2 Q Did the account notes that we identified here today,
3 pages 80 through 97, reflect that any mail was returned as
4 undelivered or returned for any other reason?

5 A No.

6 Q If a Citibank customer were to opt out of an
7 arbitration provision, would that be reflected in the account
8 notes that we identified as pages 80 to 94?

9 MR. THREADCRAFT: Object to the form.

10 MR. KOVAL: The same objection.

11 MS. FRIEDMAN: 97 you mean.

12 MR. CHAPMAN: I'm sorry. 80 to 97.

13 MR. THREADCRAFT: Same objection.

14 MR. KOVAL: The same objection.

15 THE WITNESS: It may be.

16 BY MR. CHAPMAN:

17 Q Can you tell from the account notes that we have
18 here, pages 80 through 97, whether Citibank received any
19 indication of Mr. Cox's opting out or desire or intent to opt
20 out of arbitration?

21 A The account notes do not show any receipt of a opt
22 out for Mr. Cox.

23 Q When modifications or changes to the terms and
24 conditions of a cardholder's account are sent, are they
25 typically sent with credit card -- the monthly credit card

1 statement?

2 A Not always.

3 Q Sometimes they're sent separately; would that be
4 correct?

5 A Yes.

6 Q What about cardmember agreements themselves, the
7 original cardmember agreement, is that typically sent
8 separately, or is that sent along with something, such as the
9 plastic card?

10 MR. THREADCRAFT: Object to the form.

11 MR. KOVAL: The same objection.

12 THE WITNESS: The original card agreement
13 is -- would normally be sent with the plastic from
14 Citibank.

15 BY MR. CHAPMAN:

16 Q When we look at Bates 74 through 79, do you see on
17 page 78 in the center column where it says arbitration in all
18 capital letters and bold?

19 A Yes.

20 Q Are you familiar with Citibank's policy as to
21 arbitration and its cardholder agreements?

22 MR. THREADCRAFT: Well, I'm going to object
23 to the form of that question.

24 THE WITNESS: Can you restate the question?

25 BY MR. CHAPMAN:

1 Q Sure. What is your understanding of arbitration
2 with respect to Citibank?

3 MR. THREADCRAFT: I'm going to object to the
4 form of the question too.

5 MR. KOVAL: Same objection.

6 BY MR. CHAPMAN:

7 Q To the best of your knowledge, does Citibank
8 usually include arbitration provisions in its credit card
9 statements?

10 MR. THREADCRAFT: Object to the form.

11 THE WITNESS: No, they're not included with
12 the statements.

13 BY MR. CHAPMAN:

14 Q Where would we find them?

15 A In card agreements.

16 Q Would we find them in modifications to card
17 agreements?

18 A If that was the provision being modified.

19 Q Do you know whether Citibank typically puts
20 arbitration provisions in its cardmember agreements?

21 MR. THREADCRAFT: Object to the form.

22 THE WITNESS: Yes.

23 BY MR. CHAPMAN:

24 Q And do you recall, to the best of your knowledge,
25 for how long they've been doing that?

1 A Citibank added the arbitration provisions to its
2 credit card agreements in late 2001.

3 Q Do you know whether, beginning in late 2001, the
4 credit card or cardmember agreements contained class action
5 waivers?

6 A I don't know that.

7 Q Let's go back to Bates 189 for just a moment. I
8 think we pulled those out earlier. Do you see on page 189,
9 the language that says, please see the enclosed notice of
10 change in terms to your card agreement for important
11 information regarding changes to your card agreement?

12 A Yes.

13 Q To the best of your knowledge, are those changes in
14 terms -- have we looked at those today? Have we looked at a
15 document that would indicate what those terms are?

16 MR. THREADCRAFT: Object to the form.

17 THE WITNESS: No.

18 BY MR. CHAPMAN:

19 Q Let's take a look at Bates 220.

20 MR. KOVAL: 220?

21 BY MR. CHAPMAN:

22 Q Yep. On Bates 220, do you see where it says
23 closing date 02-01 --

24 A Yes.

25 Q And is this a credit card statement that would have

1 been sent to Mr. Cox?

2 A Yes.

3 Q Does this statement reflect a change in terms?

4 A No.

5 Q Does this statement reflect any charges on the
6 account?

7 A Yes.

8 Q Does this statement reflect any payments on the
9 account?

10 A Yes.

11 Q Let's take a look at page 223. Do you recognize
12 this document?

13 A Yes.

14 Q And is this a credit card statement that would have
15 been sent to Mr. Cox?

16 A Yes.

17 Q And do you see where it says closing date 05-01-08?

18 A Yes.

19 Q Okay. This shows a payment; would that be correct?

20 A Yes.

21 Q And then above it, above where it says transaction,
22 location, description, do you see where it says, please see
23 the enclosed notice of change in terms for important
24 information?

25 A Yes.

1 Q Is the notice that would have been enclosed with
2 this document, is that something we've looked at today?

3 A Yes.

4 Q And what document would that be?

5 A Pages 74 through 79.

6 Q Let's take a look at Bates 307 through 310.

7 A Okay.

8 Q Have you ever seen this document before?

9 A Yes.

10 Q What is this document?

11 A It's an account statement.

12 Q Was this an account statement that would have been
13 sent to Glenn Cox?

14 A Yes.

15 Q And does this reflect a statement closing date of
16 7/5/2011?

17 A Yes.

18 Q And does it reflect a payment in the amount of
19 \$135.53?

20 A Yes.

21 Q Does this statement reflect the last payment that
22 was received by Citibank from Mr. Cox?

23 MR. THREADCRAFT: Object to the form.

24 THE WITNESS: I don't understand the
25 question.

1 BY MR. CHAPMAN:

2 Q Were any payments received from Mr. Cox on this
3 account after the one reflected in this statement?

4 MR. THREADCRAFT: Object to the form.

5 THE WITNESS: The statements don't reflect
6 any additional payments after that date.

7 BY MR. CHAPMAN:

8 Q Let's turn to Bates 98 through 122.

9 MR. THREADCRAFT: 98 and --

10 MR. CHAPMAN: 98 through 122. I have to find
11 them here in my pile as well. I was doing so good
12 at keeping these organized for a while, but those
13 days are over.

14 BY MR. CHAPMAN:

15 Q Have you found the documents that are identified as
16 Bates 98 through 122?

17 A Yes.

18 Q Have you ever seen those documents before?

19 A Yes.

20 Q And what are those documents?

21 A These are copies of payments received on Mr. Cox's
22 account.

23 Q Okay. And these documents, pages 98 through 122,
24 are these records that are made and kept in the ordinary
25 course of Citibank's business?

1 A Yeah.

2 MR. THREADCRAFT: Object to the form.

3 THE WITNESS: Okay. These are copies of the
4 payments after Citibank received them.

5 BY MR. CHAPMAN:

6 Q Right. And you see above the picture of the check
7 there's some -- there's a box that contains various
8 information, such as bundle total?

9 A Yes.

10 Q Was that information placed on there by Citibank?

11 A Yes.

12 Q And was the box -- and we'll call it the payment
13 box. Would that be adequate, where it says payment, in a
14 banner along the side?

15 A Yes.

16 Q Are the documents contained on pages 98 through 122,
17 is the banner box a component to that? Is that a record that
18 was created by Citibank?

19 A Yes.

20 Q And was that record made and kept in the ordinary
21 course of Citibank's business?

22 A Yes.

23 Q And is that a document that's routinely made and
24 kept in the course of Citibank's business?

25 A Yes.

1 Q And do these documents, pages 98 through 122, do
2 they reflect entries contained therein that were made at or
3 near the time of the events they described?

4 A Yes.

5 Q And were these documents, pages 98 through 122, were
6 these made by or transmitted by someone with knowledge in the
7 regular course of Citibank's business?

8 A Yes.

9 Q For the sake of just speeding things along, let's
10 just take a look at page 98. And all of these, pages 98
11 through 122 have this payment box; would that be fair to say?
12 And if you want to look through them, you're certainly welcome
13 to.

14 A I did already. They all have it.

15 Q And it would appear that there's a number of
16 categories or things that are contained in this box. Would
17 that be accurate? Words, numbers in the boxes?

18 A Yes.

19 Q Do you know what bundle total refers to?

20 A No.

21 Q Do you know what virtual validate refers to?

22 A No.

23 Q Do you see where it says account number?

24 A Yes.

25 Q Do you recognize that account number, 634570600, as

1 the account number associated with the Glenn Cox account?

2 A Yes.

3 Q Now, I will direct your attention to document 67 and
4 123 through 163.

5 MR. KOVAL: Did you say 67?

6 BY MR. CHAPMAN:

7 Q 67, and then 123 to 163.

8 A Okay.

9 Q Have you ever seen these documents before?

10 A Yes.

11 Q So you know what they are?

12 A Yes.

13 Q What is document 67?

14 A It's a copy of a bill of sale and assignment.

15 Q And how would you describe the document that's
16 identified as 123 to 163?

17 A This is a printout of the data provided to Midland
18 Funding when Citibank sold the account to Midland.

19 Q And with respect to the document that's identified
20 as 67, is this a document that's made and kept in the ordinary
21 course of Citibank's regularly conducted business activity?

22 A Yes.

23 Q And is this a document that's routinely made and
24 kept in the course of Citibank's business?

25 MR. THREADCRAFT: Object to the form.

1 THE WITNESS: Yes.

2 BY MR. CHAPMAN:

3 Q And does this document reflect entries or
4 transactions that were made at or near the time of the events
5 of those entries or transactions that are reflected in the
6 document?

7 MR. THREADCRAFT: Object to the form.

8 THE WITNESS: Yes.

9 BY MR. CHAPMAN:

10 Q And was this document, document 67, made at or near
11 the time or from information transmitted by someone with
12 knowledge in the regular course of Citibank's business?

13 MR. THREADCRAFT: Object to the form.

14 THE WITNESS: Yes.

15 BY MR. CHAPMAN:

16 Q And let's take a look at 123 through 163. Is this
17 a record that is made and kept in the ordinary course of
18 Citibank's regularly conducted business activity?

19 MR. THREADCRAFT: Object to the form.

20 THE WITNESS: Yes.

21 BY MR. CHAPMAN:

22 Q And is this a document that's routinely made and
23 kept in the course of Citibank's business?

24 MR. THREADCRAFT: Object to the form.

25 THE WITNESS: Yes.

1 BY MR. CHAPMAN:

2 Q And does this document reflect entries that were
3 made at or near the time of the events that they described
4 therein?

5 A Yes.

6 Q And was this document made at or near the time of or
7 transmitted by someone with knowledge in the regular course of
8 Citibank's business?

9 A Yes.

10 MR. THREADCRAFT: Object to the form.

11 BY MR. CHAPMAN:

12 Q The account notes that we looked at that are
13 reflected on page 80 through 96, do you remember those?

14 A Yes.

15 Q Do these documents reflect any change in conditions
16 or terms to the Glenn Cox account prior to the May 2008
17 changes that we've talked about today?

18 MR. THREADCRAFT: Object to the form.

19 MR. KOVAL: Same objection.

20 THE WITNESS: No.

21 BY MR. CHAPMAN:

22 Q We talked a little bit just a few minutes ago about
23 Citibank implementing a late 2001 policy and placing
24 arbitration provisions in its credit card agreements. Do you
25 remember that?

1 MR. THREADCRAFT: Object to the form.

2 MR. KOVAL: Same objection.

3 MR. CHAPMAN: Why?

4 MR. THREADCRAFT: Do you want me to explain
5 it?

6 MR. CHAPMAN: Yeah.

7 MR. THREADCRAFT: You said Citibank, and
8 Citibank, N.A. was not created until 2011, so that's
9 after 2001.

10 BY MR. CHAPMAN:

11 Q So it would be safe to say that Citibank's
12 predecessor entity began placing arbitration provisions in
13 their credit card accounts prior -- or from late 2001
14 forward?

15 MR. THREADCRAFT: Are you asking me?

16 MR. CHAPMAN: Well, I'm asking the witness.

17 MR. THREADCRAFT: I thought you were looking
18 at me.

19 MR. KOVAL: The same objection.

20 MR. CHAPMAN: I'm going --

21 MR. THREADCRAFT: Objection to the form of
22 the question.

23 MR. KOVAL: I have the same objection.

24 THE WITNESS: Citibank (South Dakota), N.A.
25 added the arbitration provision to all of its

1 agreements for credit card accounts in late 2001.

2 BY MR. CHAPMAN:

3 Q Would it have added an arbitration provision to the
4 Glenn Cox account?

5 MR. THREADCRAFT: Object to the form.

6 MR. KOVAL: I object to the form of the
7 question as well.

8 THE WITNESS: I don't know whether the
9 account already had an arbitration provision or
10 whether it was added by Citibank.

11 BY MR. CHAPMAN:

12 Q If it were added by Citibank, would it have been
13 added in 2001?

14 MR. THREADCRAFT: I'm going to object to the
15 form of this just because you at one time designated
16 Citibank as Citibank, N.A., so I think we've
17 clarified that, but I'm objecting to the form on
18 that basis.

19 BY MR. CHAPMAN:

20 Q Do you know the answer?

21 A Can you restate the question?

22 Q If an arbitration provision had been added by
23 Citibank to the Glenn Cox account, would it have been in late
24 2001?

25 MR. THREADCRAFT: Object to the form.

1 THE WITNESS: I don't know that.

2 MR. CHAPMAN: Okay. Let me go off the record
3 for just a moment here just for a second.

4 (Discussion off the record.)

5 BY MR. CHAPMAN:

6 Q To your knowledge, if Citigroup had added an
7 arbitration provision to the Glenn Cox credit card agreement,
8 would that have happened in 2001?

9 A I don't know that.

10 MR. CHAPMAN: That's it. I don't have any
11 other questions.

12 MR. THREADCRAFT: Do you want to go and then
13 if I need to redirect after both of you-all or how
14 do you want to do that, Steve?

15 MR. KOVAL: Well, I know that Rachel wants to
16 get on a flight so I think --

17 MS. FRIEDMAN: Can I just have a few minutes?

18 MR. CHAPMAN: Yeah, before we --

19 MR. KOVAL: That's fine with me. We can go
20 off the record.

21 (Discussion off the record.)

22 MS. FRIEDMAN: I guess I'm good.

23 BY MR. CHAPMAN:

24 Q Is there anything else about the account --

25 MR. THREADCRAFT: Is this on the record?

1 MR. CHAPMAN: Yeah, just kind of a catch-all
2 question.

3 BY MR. CHAPMAN:

4 Q Is there anything else -- are there any other
5 documents that are associated with this account that would
6 describe or show when credit card agreements or modifications
7 to credit card agreements would have been sent to Mr. Cox,
8 other than what we looked at today?

9 MR. THREADCRAFT: Object to the form.

10 THE WITNESS: No.

11 MR. CHAPMAN: Okay. That's it.

12 MR. KOVAL: Let's take a five-minute break
13 and then we can --

14 (A recess was taken.)

15 MS. FRIEDMAN: Actually, I have a few
16 questions if I could. It won't take long.

17 MR. KOVAL: You just want to see if they can
18 hear you. Can you say something?

19 MS. FRIEDMAN: Can you hear me on the phone?
20 This is Rachel.

21 MR. HUNT: Yes, I can hear you fine. This is
22 Jimmy.

23 EXAMINATION

24 BY MS. FRIEDMAN:

25 Q All right. Back on the record. My name is Rachel

1 Friedman. I don't remember if we met this morning or not. I
2 represent Midland Funding, the entity that purchased
3 Mr. Cox's account. I just have a few questions for you. You
4 testified that you weren't sure if class action waivers were
5 part of the arbitration provisions that were added in 2001 by
6 Citibank (South Dakota); is that correct?

7 A Correct.

8 Q Do you know when class action waivers were added by
9 Citibank (South Dakota)?

10 MR. THREADCRAFT: Object to the form.

11 THE WITNESS: No.

12 MR. KOVAL: Yes, same -- okay.

13 BY MS. FRIEDMAN:

14 Q You also testified, I believe, that sometimes
15 modifications to terms and conditions are mailed with billing
16 statements and sometimes they're mailed separately; is that
17 correct?

18 A Yes.

19 Q Is it the normal practice and procedure that terms
20 and conditions or modifications to terms and conditions,
21 whether or not they were sent with the billing statements,
22 would have been sent to the same address that billing
23 statements were sent to?

24 A Yes.

25 Q Do you know when -- do you know whether this type of

1 account had a class action waiver, the CITGO card account --

2 MR. THREADCRAFT: Object to the form.

3 MR. KOVAL: Object --

4 BY MS. FRIEDMAN:

5 Q -- at any point?

6 MR. KOVAL: The same objection.

7 THE WITNESS: I'm not familiar with a class
8 action waiver so I don't know.

9 BY MS. FRIEDMAN:

10 Q Okay. That helps. Okay. If I could direct your
11 attention to Bates stamp pages 68 through 71.

12 A Okay.

13 Q I'm sorry. 73 is the last page of that one. 68
14 through 73.

15 MR. KOVAL: Okay. Just hold on one second.
16 I think we've been using 74 through 79, which is a
17 duplicate.

18 MS. FRIEDMAN: Okay.

19 MR. KOVAL: The record is going to be
20 convoluted enough. If I'm right about that, could
21 we just refer to the same document numbers?

22 BY MS. FRIEDMAN:

23 Q Look at Bates stamp 74 through 79. I believe you
24 testified that this was a terms and conditions that was sent
25 to Mr. Cox around June 2008; is that correct?

1 A No, it was May 2008.

2 Q Okay. May 2008. On page 78, I'll direct your
3 attention to the middle column where it says, claims covered,
4 and at the bottom of that paragraph it says, claims and
5 remedies sought as part of a class action, private attorney
6 general or other representative action are subject to
7 arbitration on an individual (non-class, non-representative)
8 basis.

9 Are you familiar with that type of provision that
10 we've been referring to I believe as a class action waiver?

11 MR. THREADCRAFT: Object to the form.

12 MR. KOVAL: The same objection.

13 THE WITNESS: No, I wasn't really familiar
14 with it.

15 BY MS. FRIEDMAN:

16 Q Okay. So do you have any knowledge about how long
17 that type of provision has been in Citibank or Citibank
18 (South Dakota) N.A.'s terms and conditions?

19 A No, I don't know how long that specific language has
20 been in the arbitration provision.

21 Q You don't know how long any type of provision that
22 would have waived a cardholder's right to bring a class action
23 against Citibank (South Dakota) or Citibank, N.A. would have
24 been included in the terms and conditions?

25 MR. THREADCRAFT: And I assume these

1 questions are just to her individually; is that
2 right?

3 MS. FRIEDMAN: Yes.

4 THE WITNESS: No.

5 MS. FRIEDMAN: I have no further questions.

6 MR. KOVAL: Do you want me to go?

7 EXAMINATION

8 BY MR. KOVAL:

9 Q All right. So we're looking at -- I think the last
10 questions were directed to Bates stamp 74 through 79. So if
11 you could refer to those documents. And this is the notice
12 of change in terms and right to opt out agreement that at the
13 bottom of it on the -- actually, it's on page 18 of the
14 insert. Do you see how they're numbered at the bottom?

15 A Yes.

16 Q And then it's the one that Michael referred to
17 earlier. If I am reading correctly, it's CTCIT508 is the
18 reference number you've referred to.

19 A Correct.

20 Q And then there's a date after it which is 04/08,
21 correct?

22 A Yes.

23 Q Now, if I heard you correctly, you said that Mr. Cox
24 received this.

25 MR. THREADCRAFT: Object to the form.

1 THE WITNESS: Citibank's records indicate
2 this notice was sent to him --

3 BY MR. KOVAL:

4 Q Okay.

5 A -- or this statement.

6 Q They're two different things. So you're saying that
7 the records that you have show that it was sent to Mr. Cox, I
8 think you said approximately May of '08.

9 A Yes.

10 Q So that is correct?

11 A Uh-huh.

12 Q But you don't know if it was received?

13 MR. THREADCRAFT: Object to the form.

14 THE WITNESS: No.

15 BY MR. KOVAL:

16 Q And for all you know, it's possible that it was not
17 received?

18 MR. THREADCRAFT: Object to the form.

19 THE WITNESS: Yes.

20 BY MR. KOVAL:

21 Q And you don't know the method that these inserts
22 were sent, do you?

23 MR. THREADCRAFT: Object to the form. Are
24 you asking her individually?

25 MR. KOVAL: She's here on behalf of Citibank

1 so I'm not asking --

2 MR. THREADCRAFT: What topic -- well, I
3 guess --

4 MR. KOVAL: It is in there.

5 MR. THREADCRAFT: Which one is it?

6 MR. KOVAL: It is -- so the question that's
7 being asked is how does that fit under the subpoena
8 that was served, correct?

9 MR. THREADCRAFT: Yeah, in the topics on
10 the --

11 MR. KOVAL: Yeah, and it's number 10,
12 communications including correspondence between any
13 authorized user of the credit card account and
14 Citibank, N.A. So that is topic number 10.

15 MR. THREADCRAFT: Which is broad, and we have
16 objections to that. I mean, that's a very broad
17 statement, communications, but --

18 MR. KOVAL: Well, we can fight about this
19 later. I'm asking the question. I do believe it
20 falls under the --

21 MR. THREADCRAFT: I guess -- I'm not
22 instructing her not to answer. I'm just stating
23 that objection on the record and relying on the
24 objection asserted. I'm not instructing her not to
25 answer.

1 MR. KOVAL: I understand, and I appreciate
2 that.

3 THE WITNESS: I'm sorry. Could you restate
4 the question?

5 (The court reporter read back.)

6 THE WITNESS: Yes, I do know how they're
7 sent.

8 BY MR. KOVAL:

9 Q Can you tell me?

10 A Yes.

11 Q Would you?

12 A The billing statements are printed with codes that
13 will indicate which inserts go into the billing statement so
14 when the statement comes through the statement processing
15 machine, it inserts the applicable state inserts, and so
16 that -- these inserts would have been a document that went in
17 with the billing statement and out in the U.S. mail.

18 Q Right. But you don't know for a fact that an insert
19 went in with Mr. Cox's statement, do you?

20 A No.

21 MR. THREADCRAFT: Object to the form.

22 BY MR. KOVAL:

23 Q So, no, you do not know?

24 MR. THREADCRAFT: Object to the form.

25 BY MR. KOVAL:

1 Q I just want to make sure you were saying what I
2 thought you were saying.

3 A Okay.

4 Q So you do not know that an insert was put into the
5 statement that Mr. Cox received?

6 MR. THREADCRAFT: Object to the form.

7 THE WITNESS: No.

8 BY MR. KOVAL:

9 Q Now, these statements that we looked at earlier --

10 A Uh-huh.

11 Q -- those were not photocopies of the statements that
12 were sent to Mr. Cox, are they?

13 A No, they are reproductions.

14 Q What's a reproduction?

15 A It's not like we keep a physical copy of each
16 statement that goes out, and if we need another copy we take a
17 photocopy on a photo copier. The data that's disclosed on the
18 statement is housed in a system, and when we need a copy of a
19 duplicate or a reproduction of a statement, we go in and
20 request that month's statement, and it's generated as a
21 reproduction.

22 Q It's not really a reproduction though. It's a
23 template, and your employer fills that with information that
24 is stored elsewhere, correct?

25 MR. THREADCRAFT: I'm going to object to the

1 form of the question and the way the questions are
2 being asked. Go ahead.

3 THE WITNESS: I don't know that.

4 BY MR. KOVAL:

5 Q Okay. So if you could tell me further -- I don't
6 understand what you mean by a reproduction. So is the whole
7 form stored electronically or bits and pieces of the
8 information stored in separate parts, and then it's
9 integrated?

10 A It's my understanding the latter would be true.

11 Q And do you know where this information is stored?

12 A No.

13 Q And do you know who has access to it?

14 A No.

15 Q And do you know if anybody can go in and alter that
16 information?

17 A No.

18 MR. THREADCRAFT: Again, I'm going to let you
19 ask your questions. If we could have a -- the
20 topics are clearly delineated. We have objections
21 to those. We -- I don't believe the topics are
22 described with reasonable particularity, which is a
23 requirement under the rules. We produced a witness
24 in good faith. This is not saying that Citibank
25 does not know how these things are done. This

1 particular witness that we put up, subject to the
2 objections for these topics, with no idea that
3 you-all were going to go into this type of detail
4 and information, might not individually know it, but
5 with respect to the questions you asked and also Mr.
6 Chapman, that doesn't mean that Citibank doesn't
7 know the answer to these questions. I'm not trying
8 to cut you off. I just want to be clear on the
9 record that it's not that nobody at Citibank knows
10 how this stuff is done.

11 MR. KOVAL: I understand what you're saying.
12 I ask that you not make talking objections. You've
13 objected to the subpoena. There's a record of it.
14 You've restated that you're objecting so let's let
15 the deponent answer the questions and -- or you can,
16 you know, if you choose to, I guess you can instruct
17 her not to.

18 MR. THREADCRAFT: I'm not going to instruct
19 her not to answer, but what I want to make clear for
20 on the record -- I'm not trying to make a speaking
21 objection -- I want to be clear as to what we've
22 done in proffering this witness, and that you may be
23 asking questions that this individual witness
24 doesn't -- I'm not instructing her -- we can do it
25 off the record in private out in the parking lot if

1 you want to or downstairs, whatever, not in front of
2 the witness, but I just want to be clear about that.
3 We've made a good faith effort to produce a witness
4 to provide testimony in response to these questions
5 dealing with the issue of arbitration. And so the
6 fact that this witness might not know the answer to
7 one question that you asked, doesn't mean that
8 nobody at Citibank knows the answer to that. That's
9 all I'm saying.

10 MR. KOVAL: And I appreciate that, and we're
11 having lovely weather up here in Sioux Falls, but I
12 really don't want to have to come back to Sioux
13 Falls for another deposition. And I think you-all
14 were adequately put on notice as to what the topics
15 would be. I understand you've made objections so I
16 think we understand each other's positions. They're
17 just not quite the same.

18 MR. THREADCRAFT: Well, what I'm saying is
19 certain answers she's giving are not answers of
20 Citibank (South Dakota), N.A.

21 MR. KOVAL: Well, I disagree with you. I'm
22 just saying that will be up to a court to determine
23 whether your objections were valid and everything
24 else. So, you know, you and I don't need to --

25 MR. THREADCRAFT: Let's go off the record for

1 a second.

2 MR. KOVAL: I don't want to go off the
3 record. I really think that's an issue for another
4 day.

5 MR. THREADCRAFT: No, it's not. The topics
6 are clearly delineated. We've asserted objections
7 to them. You're asking questions, and I want to
8 make clear for the record that just because this
9 witness doesn't know the answer to a certain
10 question doesn't mean that she's providing an answer
11 on behalf of Citibank. That's all I'm doing.

12 MR. KOVAL: I didn't notice the deponent's
13 individual deposition. As a matter of fact, I
14 didn't notice anybody's deposition. The Defendant
15 Hanna noticed this deposition, and they did not ask
16 for a particular person. So my understanding, and I
17 flew up to South Dakota to take the deposition or to
18 cross-examine the deponent for Citibank, and that's
19 what I'm doing.

20 MR. THREADCRAFT: I understand.

21 BY MR. KOVAL:

22 Q Okay. Now, on page Bates stamp 75 under the
23 paragraph on the left-hand side that says, right to opt
24 out --

25 A Yes.

1 Q -- you testified that you don't have a record of
2 Mr. Cox having opted out.

3 A No, I believe I said that the records we have don't
4 show that he opted out.

5 Q Right. But you don't know -- it is possible that he
6 did opt out, and you just do not have a record of it; isn't
7 that correct?

8 MR. THREADCRAFT: Object to the form.

9 THE WITNESS: I suppose that's correct.

10 BY MR. KOVAL:

11 Q And how many of these -- you know, what we're
12 referring to as the notice of change in terms, the CIT that
13 starts on page 74, how many of these were sent out to
14 Citibank customers?

15 MR. THREADCRAFT: And what topic is that?

16 MR. CHAPMAN: The same objection.

17 MR. THREADCRAFT: Again, I'm not trying to
18 make talking objections. I'm just trying to make
19 sure the scope is covered. I'm not saying the
20 witness can't answer the question either. I'm just
21 trying to keep that delineation clear between
22 answers on behalf of Citibank and answers by this
23 witness right here so that's all I'm trying to do
24 here. I'm not trying to impede your questions. I'm
25 just trying to have clarity with respect to that

1 issue.

2 MR. KOVAL: Well, number three is testimony
3 as to the documents produced by Citibank as Bates
4 stamped 1 through 334 in response to the subpoena,
5 not limited to authenticity, meaning origination and
6 dates.

7 MR. THREADCRAFT: Again, I'm not trying to
8 prohibit you from asking the question.

9 MR. KOVAL: I understand.

10 BY MR. KOVAL:

11 Q So you could answer the question if you're able to.

12 A I don't know.

13 Q Do you know ballpark? I mean, was it more than a
14 million, do you think?

15 A No idea.

16 MR. THREADCRAFT: The same objection.

17 BY MR. KOVAL:

18 Q Okay. You don't know? You have no idea?

19 A No idea.

20 Q You don't know if there's a written agreement
21 between Mr. Cox and Associates National Bank (Delaware), do
22 you?

23 A No.

24 MR. CHAPMAN: I'm going to object as to the
25 form of that question.

1 MR. KOVAL: I've got a document I want to
2 introduce. Do you-all have the Midland-Cox
3 production docs 15 through 38?

4 MR. CHAPMAN: 15?

5 MR. KOVAL: Yeah.

6 MR. CHAPMAN: Isn't that just a --

7 MR. KOVAL: Midland-Cox, not yours?

8 MR. CHAPMAN: No, I don't have any of that.
9 I guess -- can I look on with you?

10 (Discussion off the record.)

11 BY MR. KOVAL:

12 Q So I think I told you off the record -- I'm not
13 sure if we were on the record -- that this is a copy of a
14 document that plaintiff received from defendant, Midland
15 Funding.

16 A Okay.

17 Q Does this appear to be a true and correct copy --
18 let me get the question out.

19 MR. THREADCRAFT: Yeah.

20 BY MR. KOVAL:

21 Q -- of the Midland Funding, LLC purchase and sale
22 agreement?

23 MR. CHAPMAN: I'm going to object to the form
24 of the question. I'm going to object to the entry
25 of the document being outside the scope of the

1 subpoena. Go ahead if you --

2 MR. KOVAL: I actually wasn't -- I wanted to
3 identify it. This could be anything. I mean, if
4 you could just allow me to further identify, I said
5 the purchase and sale agreement, and then one line
6 below that it says, February 2013, oil and retail
7 private label accounts.

8 MR. THREADCRAFT: And let me just say for the
9 record, not speaking objection but clarifying the
10 scope, I'm not instructing the witness not to answer
11 it. I believe you said you believe this fits in one
12 of the categories, which are extremely broad, so I'm
13 not instructing her not to answer it, but I am
14 making a statement that this is not a statement on
15 behalf of Citibank that it wouldn't know answers
16 regarding this. This witness that we have here,
17 despite our good faith efforts to produce a witness
18 to provide answers dealing with the issue of -- as I
19 understand it the scope of this deposition is
20 limited to arbitration and so -- pursuant to the
21 Court's order so with that statement made, I'm not
22 instructing this individual not to answer. I'm
23 making that point clear.

24 THE WITNESS: I don't know.

25 BY MR. KOVAL:

1 Q So you don't know whether this is the purchase and
2 sale agreement?

3 A No, I don't.

4 Q Have you seen this document before?

5 MR. THREADCRAFT: I'm going to object to the
6 extent that you're asking for information that would
7 be covered by the attorney-client privilege.

8 BY MR. KOVAL:

9 Q Have you seen this document before?

10 MR. THREADCRAFT: Outside -- just to clarify
11 the question, because I don't think you're trying to
12 invade that providence, outside of anything that you
13 and I may have talked about or seen.

14 MR. KOVAL: Yeah, I don't -- yeah, I'm --
15 that isn't my question.

16 BY MR. KOVAL:

17 Q My question is generally, have you seen this
18 document before?

19 MR. THREADCRAFT: Well, then I'm going to
20 instruct the witness not to answer the question.

21 BY MR. KOVAL:

22 Q Okay. So I don't see how she would have seen it
23 any other way, but I'll ask it, have you seen the document
24 outside of through counsel?

25 A I don't recall.

1 Q So you may have; you may not have?

2 MR. THREADCRAFT: Object to the form.

3 THE WITNESS: Yes.

4 BY MR. KOVAL:

5 Q And you received a copy of the subpoena for the
6 deposition today, correct?

7 A Uh-huh.

8 Q And if I could direct you -- this was Defendant's
9 Exhibit Number 1, I believe.

10 A Yes.

11 Q And topic number 12 was sale of a credit card
12 account to Midland Funding, LLC.

13 A Yes.

14 Q Okay. And a purchase agreement relates to the sale
15 of the credit card account to Midland Funding, LLC, doesn't
16 it?

17 MR. THREADCRAFT: Object to the form.

18 THE WITNESS: Yes.

19 BY MR. KOVAL:

20 Q Now, are you aware that Citibank has the right to
21 repurchase accounts?

22 MR. CHAPMAN: Objection.

23 MR. THREADCRAFT: Are you asking her
24 individually?

25 MR. KOVAL: I'm not asking her anything

1 individually. I'm asking her questions because she
2 is here because she is the corporate representative
3 of Citibank, N.A., and that's why I'm here in South
4 Dakota today.

5 MR. THREADCRAFT: Well, and then to reiterate
6 for clarification purposes of the record, the
7 witness was produced in response to a subpoena that
8 was not -- did not describe topics with reasonable
9 particularly. We have made a good faith effort to
10 produce a witness. That does not mean that Citibank
11 does not know the answer to your question.

12 If this individual witness does not know the
13 answer, that's one thing. We asserted objections to
14 the topics. We've produced a witness. I'm not
15 telling you you can't answer the question, but with
16 that clarification, with the statement made, go
17 ahead.

18 MR. KOVAL: So even with John not insisting
19 upon me paying for half of the takedown, it's still
20 going to be a very expensive transcript. I
21 understand your objection. Can we agree to
22 abbreviate what it is and you can just say something
23 shorthand and we'll know what that is?

24 MR. THREADCRAFT: Yeah, I just want to make
25 it clear for the record. That's all I'm trying to

1 do.

2 MR. KOVAL: I understand. And I'm just
3 trying to keep the record concise.

4 MR. THREADCRAFT: I understand.

5 MR. KOVAL: So let's try to come up with
6 something --

7 MR. THREADCRAFT: Scope?

8 MR. KOVAL: Yeah. Why don't we say that
9 objection you just made --

10 MR. THREADCRAFT: Yeah.

11 MR. KOVAL: -- in the future, if you just
12 want to say it's beyond the scope of the subpoena.

13 MR. THREADCRAFT: Or scope and objection, how
14 about that, and then that includes the objections
15 that are set forth that we served in response to
16 subpoena? I'm fine with that.

17 MR. KOVAL: I think that's fair.

18 MR. THREADCRAFT: Okay. Fair enough.

19 MR. KOVAL: And we may be able to get you on
20 your plane if we do it that way.

21 MR. THREADCRAFT: I'm here as long as you
22 want to go. I'm not trying to rush you.

23 MR. KOVAL: Thank you.

24 BY MR. KOVAL:

25 Q I believe the question I was asking you was, you're

1 aware that Citibank has the right to repurchase accounts that
2 it sold to Midland Funding?

3 MR. THREADCRAFT: I'm going to object to the
4 form of the question and scope of the objection.

5 MS. FRIEDMAN: I object based on relevance to
6 arbitration discovery.

7 MR. CHAPMAN: And I reiterate both
8 objections.

9 MR. KOVAL: Court reporter, do you have any
10 objections? I'm kidding.

11 MR. THREADCRAFT: Can I ask a question?

12 MR. KOVAL: Sure.

13 MR. THREADCRAFT: And we don't have to do it
14 on the record, but I know you said that all
15 objections -- go ahead. Never mind. Go ahead.
16 Sorry.

17 BY MR. KOVAL:

18 Q We were talking about Midland's ability or
19 Midland's right to repurchase accounts.

20 MR. THREADCRAFT: I'm going to object to the
21 form of the question as it's restated. Reiterate my
22 same previous objections.

23 THE WITNESS: I don't know why Midland would
24 else.

25 BY MR. KOVAL:

1 Q I understand your answer. I'm asking you, are you
2 aware that Midland has the right to repurchase accounts from
3 Midland Funding?

4 A No.

5 Q Okay. When Citibank sold Mr. Cox's account to
6 Midland Funding, Citibank did not warrant that there was an
7 arbitration agreement regarding the account, did it?

8 MR. CHAPMAN: Objection as to form.

9 Objection as to scope.

10 MR. THREADCRAFT: Objection as to form, scope
11 and objections set forth in the subpoena response.

12 THE WITNESS: I don't know.

13 BY MR. KOVAL:

14 Q Do you know anything about the sale of this
15 account?

16 MR. CHAPMAN: Objection.

17 BY MR. KOVAL:

18 Q And when I say this account, I mean Mr. Cox's
19 account.

20 MR. CHAPMAN: Objection, form.

21 MR. THREADCRAFT: Objection to scope and the
22 subpoena response.

23 THE WITNESS: Yes, I do know something about
24 the sale.

25 BY MR. KOVAL:

1 Q Tell me what you know, please.

2 MR. THREADCRAFT: The same objection.

3 THE WITNESS: I know that it was sold to
4 Midland, and I know the date and the bill of sale
5 that we've provided.

6 BY MR. KOVAL:

7 Q So you know about the bill of sale?

8 A Uh-huh.

9 Q Okay. Let's find that document. If anybody wants
10 to help me.

11 MS. FRIEDMAN: 67.

12 MR. KOVAL: Thank you.

13 MS. FRIEDMAN: Maybe.

14 MR. KOVAL: I think that's right.

15 MR. CHAPMAN: It is in the 60s.

16 BY MR. KOVAL:

17 Q It is 67. So if I could direct you to Bates stamp
18 67 of Plaintiff's -- I'm sorry -- Defendant's Exhibit 2. Can
19 you tell me what you know about this document?

20 A It's --

21 MR. THREADCRAFT: Object to the form.

22 THE WITNESS: It's a copy of the bill of sale
23 evidencing the sale of the Cox account to Midland
24 dated February 28, '13.

25 BY MR. KOVAL:

1 Q Well, it actually doesn't evidence the sale. It
2 just discusses the sale, does it not?

3 MR. THREADCRAFT: Object to the form of the
4 question.

5 THE WITNESS: Can you restate your question?
6 (The court reporter read back.)

7 MR. THREADCRAFT: The same objection.

8 THE WITNESS: I don't understand the
9 question.

10 BY MR. KOVAL:

11 Q Well, it doesn't have the terms and conditions of
12 the sale, does it?

13 MR. THREADCRAFT: I'm going to object to the
14 form of the question.

15 THE WITNESS: No.

16 BY MR. KOVAL:

17 Q And it references an Exhibit 1, but there's no
18 Exhibit 1 attached to it, is there?

19 A No, there's not.

20 Q And there's no final electronic file attached to
21 this bill of sale and assignment either, is there?

22 MR. THREADCRAFT: Object to the form. Do you
23 want me to help you on that?

24 MR. KOVAL: Sure.

25 MR. THREADCRAFT: Do you mean attached, like

1 following this in the Bates stamp production?

2 MR. KOVAL: Well, this document says,
3 accounts described in Exhibit 1 and the final
4 electronic file. And I don't see anything attached
5 to the bill of sale as Exhibit 1 or a final
6 electronic file. Do you?

7 MR. THREADCRAFT: You're talking about in the
8 production that was made, right?

9 MR. KOVAL: Correct.

10 MR. THREADCRAFT: Go ahead.

11 THE WITNESS: That's correct.

12 BY MR. KOVAL:

13 Q If I could direct you to Bates stamp 88 of
14 Defendant's Exhibit 2.

15 A Okay.

16 Q Do you know where these documents or rather the
17 information contained in these documents is stored?

18 A Yes, it's stored on a Citibank system.

19 Q And where is that?

20 A I don't know where the server is located.

21 Q Do you know who has access to them?

22 A Yes.

23 MR. THREADCRAFT: And for this line of
24 questions, the same objection as to scope and the
25 objection in response to the subpoena. Go ahead.

1 BY MR. KOVAL:

2 Q So you said you do know who has access?

3 A I know some people who have access to them, yes.

4 Q Do you know how many people have access to them?

5 A No.

6 Q Do you know if it's possible to alter the data?

7 MR. THREADCRAFT: Object to the form.

8 THE WITNESS: I wouldn't know how to alter
9 it, no.

10 BY MR. KOVAL:

11 Q I'm not talking about you. But do you know if it
12 is possible to alter the data?

13 MR. THREADCRAFT: The same objection.

14 THE WITNESS: No.

15 BY MR. KOVAL:

16 Q And you don't know whether the data has been
17 altered or not, do you?

18 MR. THREADCRAFT: The same objection as to
19 form for the whole line of questions with respect to
20 scope of the subpoena and the objection response.

21 THE WITNESS: I'm not aware of any way to
22 alter these records.

23 BY MR. KOVAL:

24 Q But you don't know whether the data has been
25 altered?

1 A No.

2 MR. THREADCRAFT: Object to the form and
3 scope and subpoena response.

4 BY MR. KOVAL:

5 Q And you don't know how many people have access to
6 the data?

7 A No.

8 Q And you don't know who those people are?

9 MR. THREADCRAFT: Object to the form of the
10 question. Object to the scope and the subpoena
11 response.

12 THE WITNESS: I don't know all of the people
13 who have access to them, no.

14 BY MR. KOVAL:

15 Q I was referring to the archive data that is
16 documents 88 through 93. Does that change any of your
17 answers? I just wanted to make sure I was clear about that.

18 A No, it doesn't change my answer.

19 Q Okay. And then there's a set of what are called
20 account notes starting on page 94 that run through Bates
21 numbers 97, I believe. If I understood you, you were saying
22 that the system that you use can only hold so many notes and
23 then they go to archive; is that --

24 MR. THREADCRAFT: Object to the form.

25 BY MR. KOVAL:

1 Q Is that a fair statement?

2 MR. THREADCRAFT: Object to the form.

3 THE WITNESS: Yes.

4 BY MR. KOVAL:

5 Q And you don't know who has access to this data, do
6 you?

7 MR. THREADCRAFT: I'm going to object to the
8 form of the question.

9 MR. CHAPMAN: The same objection.

10 MR. THREADCRAFT: I don't want to impede your
11 questions. I don't want to stop you. Can we do a
12 standing objection? I'm happy to do it any way you
13 want to. I don't want to ruin your rhythm.

14 MR. KOVAL: I thought what we had agreed you
15 can just say you object to the form and that it's
16 beyond the scope and we'll know that that --

17 MR. THREADCRAFT: You just want me to do that
18 for every question?

19 MR. KOVAL: Yeah, I think that would just --
20 won't take too long.

21 BY MR. KOVAL:

22 Q So I'm looking at the account notes again, Bates
23 stamp number 94 through 97, and you don't know who has access
24 to this data, do you?

25 MR. CHAPMAN: Objection --

1 MR. THREADCRAFT: I'm going to object to the
2 form.

3 MR. CHAPMAN: -- form.

4 MR. THREADCRAFT: And I'm going to object
5 based on the subpoena response and the scope.

6 THE WITNESS: I don't know everybody who has
7 access to it.

8 BY MR. KOVAL:

9 Q Okay. Where is the data for 94 through 97 stored?

10 MR. THREADCRAFT: The same objection.

11 MR. CHAPMAN: The same objection as well.

12 THE WITNESS: What years? I'm sorry.

13 BY MR. KOVAL:

14 Q The pages 94 through 97.

15 A Oh, it's stored on our system called FDR.

16 Q And where is that located?

17 MR. THREADCRAFT: Object to the form. The
18 same objection.

19 MR. CHAPMAN: Same objection.

20 THE WITNESS: I don't remember where the
21 servers are located.

22 BY MR. KOVAL:

23 Q You don't have to be located where the server is to
24 have access to it, though, do you?

25 A No, you don't have to be in the same location.

1 Q Do you know how many people have access to this
2 data?

3 MR. THREADCRAFT: Object to the form. Object
4 to the scope and the subpoena response.

5 THE WITNESS: No.

6 BY MR. KOVAL:

7 Q Do you know if the information that's stored -- do
8 you know if this data can be changed?

9 MR. THREADCRAFT: The same objection.

10 THE WITNESS: No.

11 BY MR. KOVAL:

12 Q So you really don't know how accurate this data is,
13 do you?

14 MR. THREADCRAFT: I'm going to -- the same
15 objection.

16 MR. CHAPMAN: Yeah, same objection here as
17 well.

18 THE WITNESS: I have no reason to believe
19 it's not accurate.

20 BY MR. KOVAL:

21 Q But you don't know how it can be altered, do you?

22 MR. THREADCRAFT: Object to the form, object
23 to the scope and the subpoena response.

24 THE WITNESS: No.

25 BY MR. KOVAL:

1 Q And you don't know if it has been altered?

2 MR. THREADCRAFT: The same objection.

3 MR. CHAPMAN: Same objection.

4 THE WITNESS: No.

5 BY MR. KOVAL:

6 Q When Citibank sells accounts to Midland Funding, it
7 understands that Midland Funding may and does initiate
8 litigation against cardholders, correct?

9 MR. THREADCRAFT: I'm going to object to the
10 form of the question, the scope of the question and
11 rely on the subpoena response.

12 MS. FRIEDMAN: I object to relevance.

13 THE WITNESS: I don't know.

14 BY MR. KOVAL:

15 Q You don't know whether Citibank knows that Midland
16 sues people?

17 MR. THREADCRAFT: The same objection.

18 THE WITNESS: No.

19 BY MR. KOVAL:

20 Q Do you individually know that Midland sues
21 consumers?

22 A Yes.

23 Q And do you individually know that Midland Funding
24 sues consumers who previously had Citibank accounts that were
25 sold to Midland?

1 A I don't know that.

2 Q Were you aware that Mr. Cox has been sued by Midland
3 Funding?

4 MR. THREADCRAFT: Object to the form, and I'm
5 going to object to the extent that that requires
6 testimony that is covered by the attorney-client
7 privilege or the work product doctrine. So you're
8 asking outside of what she and I may have talked
9 about; is that right?

10 MR. KOVAL: No.

11 MR. THREADCRAFT: Well, then I'm going to --
12 I'm going to instruct you not to answer to the
13 extent that knowledge comes from something I or an
14 attorney told you in conjunction with preparation
15 for this deposition.

16 MR. CHAPMAN: On behalf of Hanna, I'm
17 objecting on the basis of it being outside the scope
18 of the subpoena.

19 MR. KOVAL: Do you need the court reporter to
20 read it back?

21 THE WITNESS: No, I --

22 MR. THREADCRAFT: I just want to be clear. I
23 instructed the witness not to answer to the extent
24 that the information came from me. So to be clear
25 and let -- if your information came from someone

1 other than an attorney who was preparing you for
2 this deposition or in conjunction with preparing a
3 response to this subpoena, then provide him with an
4 answer. Otherwise, I'm instructing you not to
5 answer.

6 THE WITNESS: Yeah, I don't remember even
7 being aware of that.

8 BY MR. KOVAL:

9 Q Did you have any communications with attorneys for
10 Midland or attorneys for Hanna?

11 MR. THREADCRAFT: Are you talking about her
12 individually?

13 MR. KOVAL: No.

14 MR. THREADCRAFT: You're asking if Citibank
15 has ever had communications with attorneys for
16 Hanna --

17 MR. KOVAL: Thank you.

18 BY MR. KOVAL:

19 Q Regarding this case.

20 MR. THREADCRAFT: Her individually or
21 Citibank?

22 MR. KOVAL: Citibank.

23 MR. THREADCRAFT: Well, where is that?

24 MR. KOVAL: It says communications.

25 MR. THREADCRAFT: Which topic?

1 MR. KOVAL: Communications, including
2 correspondence, between any authorized user of the
3 credit card account and Citibank, and testimony as
4 to the documents produced by Citibank, which is
5 number 3. So number 3, number 10.

6 MS. FRIEDMAN: What was your question?

7 MR. KOVAL: Could you read it back, please?
8 (The court reporter read back.)

9 MS. FRIEDMAN: I don't think attorneys are
10 authorized users of the credit card account.

11 MR. KOVAL: I don't know.

12 MR. THREADCRAFT: I'm going to object to the
13 form of the question, and then also the scope and
14 rely on the responses and objections that we have in
15 the subpoena response.

16 MS. FRIEDMAN: Object based on relevance and
17 outside the scope.

18 THE WITNESS: Can you restate the question?
19 (The court reporter read back.)

20 MR. THREADCRAFT: The same objection.

21 BY MR. KOVAL:

22 Q And then I think I added regarding this account.

23 MR. THREADCRAFT: The same objection.

24 THE WITNESS: I don't know.

25 BY MR. KOVAL:

1 Q And you're answering on behalf of Citibank?

2 MR. THREADCRAFT: Well, subject to the
3 objections that I just made.

4 BY MR. KOVAL:

5 Q Right. So you don't know whether you've had any --
6 or Citibank has had any communications?

7 MR. THREADCRAFT: I'm going to object to the
8 form. It's been asked and answered, and I'm going
9 to rely upon the previous response that I provided
10 with the scope and then also relying on the
11 objections here.

12 THE WITNESS: I don't recall being aware of
13 that, no.

14 BY MR. KOVAL:

15 Q And so I take it that you individually have not had
16 any contact with Mr. Chapman or Ms. Friedman or anyone that
17 you know to be an attorney for Hanna or Midland Funding
18 regarding this account.

19 MR. THREADCRAFT: Object to the form.

20 BY MR. KOVAL:

21 Q And again, I'm asking you individually.

22 MR. THREADCRAFT: Do you want me to help you?

23 MR. KOVAL: Yeah, I would like it.

24 MR. THREADCRAFT: You're talking about
25 besides just talking here today, right?

1 MR. KOVAL: Yeah, of course, not any chitchat
2 we had. I'm talking about --

3 THE WITNESS: I don't recall.

4 MR. THREADCRAFT: Before today.

5 THE WITNESS: It's possible I had
6 conversations with attorneys about subpoenas we got
7 initially before we had filed any or sent any
8 objections, but I don't remember. That would have
9 been --

10 BY MR. KOVAL:

11 Q It was my understanding --

12 A -- many months ago.

13 Q Maybe this will help. It was my understanding that
14 an affidavit was submitted to Citibank. Now, I don't know if
15 it was submitted to you personally or if it was submitted to
16 legal counsel. So I'm trying to determine whether there was
17 any discussion between you individually and counsel for Hanna
18 or Midland Funding regarding that affidavit.

19 A No, there wasn't.

20 Q Have you seen that affidavit?

21 A I don't --

22 MR. THREADCRAFT: Object to the form.

23 THE WITNESS: -- know what affidavit you're
24 referring to.

25 BY MR. KOVAL:

1 Q It was so we wouldn't have to do this today.
2 That's what the affidavit was about. Can I direct you to
3 page 164 of Defendant's Exhibit 2.

4 A Okay.

5 Q You had discussed with Mr. Chapman that -- I believe
6 it says date last sale, and then there's 01-06-08.

7 A Yes.

8 Q I just want to make sure we've got that right. That
9 means January 6th, '08, correct?

10 A Yes.

11 MR. KOVAL: If you just give me a moment and
12 I'll check with co-counsel and I may be done.

13 MR. THREADCRAFT: Sure.

14 MR. KOVAL: I don't have any more questions.

15 MR. CHAPMAN: I just have a couple of real
16 quick follow-ups, and I think we're done.

17 EXAMINATION

18 BY MR. CHAPMAN:

19 Q This is Michael Chapman on behalf of Defendant
20 Hanna. We spoke earlier about policies and procedures. Do
21 you remember that discussion today about Citibank's policies
22 and procedures?

23 A On what topic?

24 Q On the topic of sending modifications to credit card
25 agreements and sending credit card agreements to customers.

1 A Yes.

2 Q And just to make sure my understanding is correct,
3 was it your testimony that it was Citibank (South Dakota's)
4 policy and procedure to include arbitration in credit card
5 agreements beginning in 2001?

6 MR. THREADCRAFT: Object to the form.

7 THE WITNESS: Yes.

8 BY MR. CHAPMAN:

9 Q If Citibank (South Dakota) acquired an account that
10 was already existing in 2001, would it send an arbitration
11 agreement separately?

12 MR. THREADCRAFT: I'm going to object to the
13 form of the question, and I'll object as to scope.

14 MR. KOVAL: Objection as to form.

15 MR. THREADCRAFT: I'm allowing the response.

16 THE WITNESS: Can you repeat the question?

17 BY MR. CHAPMAN:

18 Q Sure. And maybe I didn't phrase it right. If
19 there's a credit card account that existed prior to 2001, did
20 Citibank (South Dakota) modify the terms and conditions of
21 that credit card account at some point to include an
22 arbitration provision?

23 MR. THREADCRAFT: I'll object to the form.

24 MR. KOVAL: Same objection.

25 THE WITNESS: I'm really sorry. Can you read

1 it back?

2 (The court reporter read back.)

3 MR. THREADCRAFT: The same objection.

4 THE WITNESS: Okay. If it -- if it was a
5 Citibank account and it didn't already have an
6 arbitration provision, then, yes, an arbitration
7 provision would have been implemented.

8 BY MR. CHAPMAN:

9 Q And would that have been in writing?

10 A Yes.

11 Q And would that have been sent to the consumer?

12 A Yes.

13 Q Do you have any reason to believe that these
14 policies and procedures were not followed with respect to the
15 Cox account?

16 MR. THREADCRAFT: Object to the form.

17 THE WITNESS: No.

18 BY MR. CHAPMAN:

19 Q Do you have any knowledge as to whether the
20 modifying agreements containing arbitration provisions would
21 include class action waivers?

22 MR. THREADCRAFT: Object to the form.

23 MR. KOVAL: Yeah, object to the form, and
24 that question has been asked and answered.

25 THE WITNESS: I don't recall. I would have

1 to actually go look at them.

2 MR. CHAPMAN: Okay. Did you have anything?

3 MS. FRIEDMAN: I just have a couple of
4 questions, really just a couple.

5 EXAMINATION

6 BY MS. FRIEDMAN:

7 Q I would turn your attention to the May 2008
8 document. It starts on page 74, I believe at the -- the
9 heading says, notice of change in terms and right to opt out.

10 A Okay.

11 Q I believe you previously testified that this was
12 sent to Mr. Cox, correct, regarding the account?

13 A Yes.

14 Q Can you show me where on this document it shows what
15 the changes were that have been -- that are being notified
16 within this document?

17 A They are listed on the page 1 through 18.

18 MR. KOVAL: Do you mean 74 through 79?

19 MR. THREADCRAFT: Well, I think she's
20 talking -- to clarify the record, she's talking
21 about the actual page numbers. Why don't you give
22 them the Bates stamp numbers to help them with the
23 record.

24 THE WITNESS: 74 through 79.

25 BY MS. FRIEDMAN:

1 Q So is it your testimony that -- I'm sorry. Let me
2 rephrase. Can you point to any individual page numbers -- I
3 see that, for instance, on page 74 of our Bates stamp it
4 shows 17, 18 and 1. Are any pages changes to the terms and
5 conditions, whereas others would have been there in previous
6 card agreements, or is that not possible to tell from this
7 document?

8 A I don't know that. It says, we have identified
9 below some of the changes to your card agreement, and it
10 outlines some of the changes, and then it restates the entire
11 card agreement starting on page 3.

12 Q So that's on Bates stamp 75, correct?

13 A Yes, uh-huh.

14 Q So do you know whether anything that's restated
15 within the card agreement was a change or would have already
16 been a part of the card agreement?

17 A I don't know that.

18 MS. FRIEDMAN: Okay. No further questions.

19 MR. KOVAL: Yeah, I have follow-up based on
20 one of the questions that was asked.

21 EXAMINATION

22 BY MR. KOVAL:

23 Q What year did you say that a Citibank entity
24 acquired Mr. Cox's account?

25 MR. THREADCRAFT: Object to the form. Go

1 ahead.

2 THE WITNESS: September of 2000.

3 BY MR. KOVAL:

4 Q But you have no evidence to suggest that any
5 modification of terms was sent to Mr. Cox in 2001, do you?

6 MR. THREADCRAFT: Object to the form.

7 MR. CHAPMAN: The same objection.

8 THE WITNESS: No.

9 BY MR. KOVAL:

10 Q So it's speculation on your part?

11 MR. THREADCRAFT: Objection to form.

12 MR. CHAPMAN: Objection.

13 BY MR. KOVAL:

14 Q You don't know?

15 A I said I didn't know.

16 Q Okay.

17 MR. KOVAL: I'm done.

18 MR. THREADCRAFT: Finished? Anybody else?

19 MR. CHAPMAN: Did you want to --

20 MR. THREADCRAFT: Let me ask a few questions
21 here. This is mainly for clarification purposes.

22 EXAMINATION

23 BY MR. THREADCRAFT:

24 Q I'm Josh Threadcraft. I represent Citibank in this
25 deposition, which goes to my first question. At different

1 times you have used the word Citibank. Do you recall that in
2 response to certain questions?

3 A Yes.

4 Q All right. Citibank has meant what entities?

5 A Citibank (South Dakota), N.A. and Citibank, N.A.

6 Q And what about Citigroup? Did Citigroup have an
7 ownership of some relation to this account at some period in
8 time?

9 A Indirectly, yes.

10 Q Okay. And flip with me to the Bates stamp page 123.

11 MR. KOVAL: 123?

12 BY MR. THREADCRAFT:

13 Q Yes.

14 A Okay.

15 Q And then there are several pages following page 123
16 that look similar. It looks kind of like an Excel
17 spreadsheet, and I believe that it goes through Bates stamp
18 number 163.

19 A Yes.

20 Q What information is contained in Bates stamp numbers
21 123 through 163?

22 A This is the Cox account data that was provided to
23 Midland when the account was sold by Citibank to Midland.

24 Q Would that be part of the final electronic file?

25 A Yes.

1 MR. THREADCRAFT: I don't think I
2 have any other questions at this time.

3 EXAMINATION

4 BY MR. KOVAL:

5 Q You said that would be part of the electronic file.
6 That is not the entire electronic file, is it?

7 A It's not the entire file, no.

8 Q I was confused. Not unusual. I thought we had
9 agreed at the beginning of the deposition that when Michael
10 was referring to Citibank that that just meant Citibank, N.A.

11 MR. THREADCRAFT: Do you want me to address
12 that?

13 MR. KOVAL: Please.

14 MR. THREADCRAFT: I think he was referring to
15 Citibank -- when he said, when I say Citibank I
16 mean -- the way I interpreted it -- Citibank, N.A.
17 but at different times the witness has provided
18 answers referring to Citibank so I'm getting
19 clarification on that.

20 MR. KOVAL: Okay. Well, it just makes for a
21 very confusing reading of the transcript because I
22 thought that we had all agreed that for the purposes
23 of the deposition Citibank meant Citibank, N.A., and
24 that if we were talking about something other than
25 that, that we would specify it so --

1 MR. THREADCRAFT: We can do this on the
2 record if you want to or off. It doesn't matter to
3 me.

4 MR. KOVAL: Well, I think we need to keep it
5 on because it's --

6 MR. THREADCRAFT: There's been -- go ahead.

7 MR. KOVAL: It may make for -- I would have
8 to read it, but I'm just afraid there are going to
9 be some responses where he's saying Citibank and he
10 means Citibank, N.A. and I mean Citibank, N.A. and
11 then she's responding, and Citibank said or Citibank
12 did such and such, and she's meaning a broader
13 Citibank.

14 MR. THREADCRAFT: I understand what you're
15 saying, and I guess there's been testimony today
16 about the history of the ownership relating to the
17 account.

18 MR. KOVAL: Uh-huh.

19 MR. THREADCRAFT: And so that -- that
20 testimony is what it is in terms of, you know, when
21 Citibank (South Dakota) had the account, when
22 Citibank, N.A. came into existence. So for example,
23 there were some questions about things that happened
24 in 2001. Well, Citibank, N.A. was not in existence
25 so that couldn't happen.

1 MR. KOVAL: Exactly.

2 MR. THREADCRAFT: And so that's what I was
3 trying to -- she may have given a response not
4 necessarily responsive to a question that he asked
5 where she said Citibank, and so her testimony is
6 what it is in terms of the time period. So that's
7 what I was trying to clarify with that. I think
8 that's clear on the record, and so I just wanted to
9 be clear that it -- with respect to some of the
10 questions like that or responses she gave to certain
11 questions. I'm not trying to change what his
12 question was.

13 MR. KOVAL: I understand. I guess we'll have
14 to look at the context. Yeah, I don't have any more
15 questions.

16 MR. CHAPMAN: I have no more questions.

17 MR. THREADCRAFT: We'll read and sign.

18 MR. CHAPMAN: I believe this deposition is
19 dismissed.

20 (3:11 p.m.)
21
22
23
24
25

C E R T I F I C A T E

STATE OF SOUTH DAKOTA)

:SS

COUNTY OF MINNEHAHA)

I, STACY L. WIEBESIEK, RPR, Notary Public in and for the State of South Dakota, do hereby certify that the deposition of CATHRINE REINECKE was by me reduced to machine shorthand in the presence of the witness, afterwards transcribed by me by means of computer, and that to the best of my ability the foregoing is a true and correct transcript of the deposition so given by her as aforesaid.

I further certify that this deposition was taken at the time and place specified in the foregoing caption.

I further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my hand at Sioux Falls, South Dakota, on the 26th day of January, 2015.



STACY L. WIEBESIEK, RPR
NOTARY PUBLIC

My Commission expires December 21, 2019.

ERRATA SHEET

DEPOSITION OF: CATHRINE REINECKE

DATE: JANUARY 23, 2015

I have read the foregoing deposition and wish to make the following changes:

PAGELINECHANGE

SIGN & DATE

1 PRAIRIE REPORTING

2 P.O. BOX 2008

3 SIOUX FALLS, SD 57101

4 January 26, 2015

5 Dear Ms. Reinecke,

6
7 At the time your deposition was taken it was indicated
8 that you would like to exercise your right to read and sign
9 the deposition transcript. Please do so at this time and make
10 any changes or clarifications you deem appropriate. However,
11 do NOT write on the transcript from which you are reading.
12 Simply write the page and line number on the enclosed Errata
13 sheet along with any corrections.

14 Upon completion, sign the Errata sheet and return it to
15 your attorney. It is important that you take care of this
16 matter at your earliest convenience.

17 If you have any questions, call me at the number
18 indicated below. Thank you for following these instructions.

19 Sincerely,

20
21
22 Stacy L. Wiebesiek, RPR
23 Court Reporter
24
25

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DATE: JANUARY 23, 2015

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